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Environment & Climate News

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Russia's Kyoto Decision Still up in the Air

Reuters Photo Archives

by Iain Murray

On May 21, Russian President Vladimir Putin announced to the world that, in order to gain European Union (EU) backing for Russia's entry into the World Trade Organization (WTO), he would "speed up movement towards ratification of the Kyoto Protocol."

Many have interpreted this to mean the internal debate in Russia over what to do about Kyoto is over. *The Boston Globe*, for example, headlined its news story, "Putin promises to ratify Kyoto treaty." But others have been far more cautious in their assessment of Putin's remarks.

Internal Consensus Lacking

Putin's words must be parsed carefully if we are to understand what has happened. He said, "The EU has met us half way in talks over the WTO, and that cannot but affect positively our position on the Kyoto

RUSSIA p. 7

Massachusetts Governor Mitt Romney Unveils Climate Protection Plan

by James M. Taylor

Massachusetts Governor Mitt Romney (R) on May 6 unveiled the state's new Climate Protection Plan, which encourages private citizens and requires state agencies and the state's large businesses to reduce carbon dioxide emissions.

Ambitious Goals

Romney said his climate plan to reduce greenhouse gas (GHG) emissions is one of the nation's most ambitious and represents a commitment to implementing the regional climate change plan adopted by the New England Governors and Eastern Canadian Premiers in August 2001.

The plan's goals are similar to provisions of the Kyoto Protocol—which was unanimously rejected by the U.S.

MASSACHUSETTS p. 16

Kansas Supreme Court Rejects County Farm Pollution Laws

by James M. Taylor

The Kansas Supreme Court on May 14 ruled counties may not impose more stringent environmental and pollution controls on feedlot owners than are imposed under state law. The decision marks a victory for farmers, and in particular family farmers, who would otherwise face the confusing task of complying with multiple conflicting laws.

County Law Invalidated Permits

The dispute arose after the Norton County Board of Commissioners passed Home Rule Resolution 2002-06, attempting to regulate confined animal feeding operations (CAFOs) within the county's borders. Before the resolution's passage, several feedlot operators had received a permit from the state that would have allowed expanded

KANSAS p. 16

Arizona Bans Gasoline Additive MTBE

by James M. Taylor

Arizona Governor Janet Napolitano (D) on May 12 signed legislation banning the additive methyl tertiary butyl ether (MTBE) from gasoline sold in the state. The legislation had passed by unanimous votes in the Arizona House and Senate.

"Miracle Additive" Gone Bad

Since 1997, Arizona has relied on MTBE to satisfy the 1990 Clean Air Act amendments, which require oxygenated additives to be blended with gasoline to reduce pollution from vehicle exhaust systems. MTBE initially was billed as a "miracle additive" that would cause gasoline to burn more cleanly. MTBE-treated gasoline costs more than gasoline without the additive, but it

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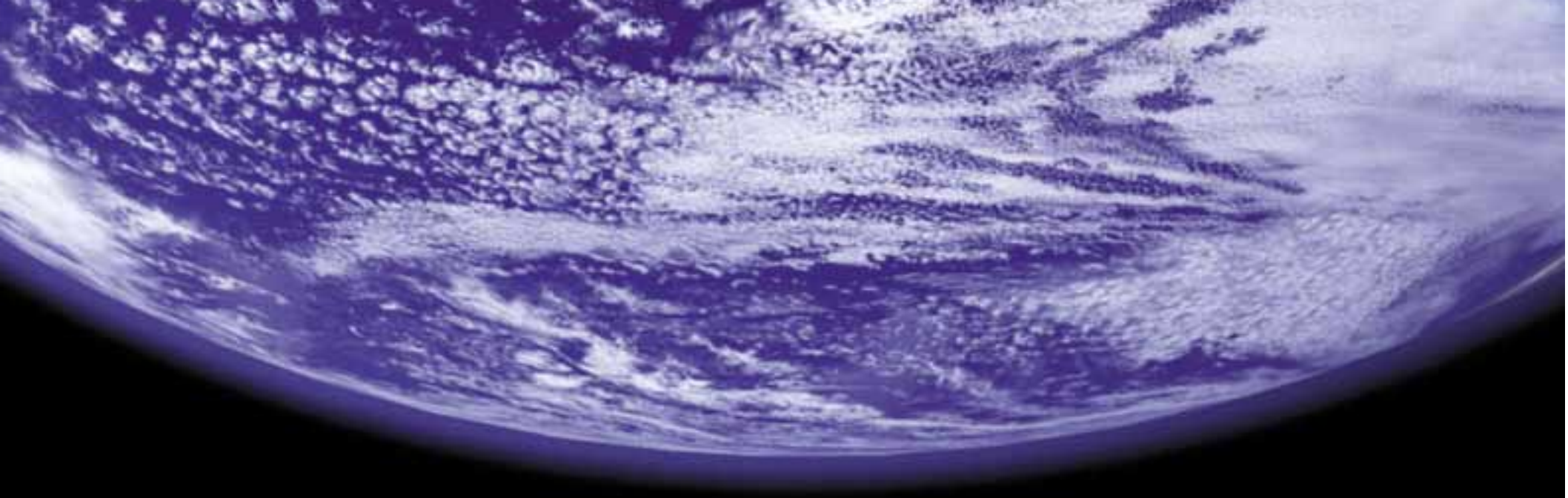

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McCain Vows New Vote on Climate Change Bill

Getty

by Myron Ebell

At a May 6 hearing, Senator John McCain (R-Arizona) vowed to seek a second vote before the end of this Congress on his bill to cap greenhouse gas emissions.

McCain is chief cosponsor, along with Senator Joseph Lieberman (D-Connecticut), of the Climate Stewardship Act, S. 139, which would create the infrastructure necessary to ration hydrocarbon energy. McCain made his pledge during a hearing of the Commerce, Science, and Transportation Committee, which he chairs.

Kerry Lobbying for Votes

S. 139 does not have the votes to be passed out of the Environment and Public Works Committee, yet McCain secured a vote for it on the Senate floor last October 30, when a weaker version of the bill was defeated 43 to 55. McCain had forced Senate Majority Leader Bill Frist (R-Tennessee) to schedule the vote on S. 139 in exchange for McCain's agreement to allow the Domenici energy bill to be replaced by the Daschle energy bill from the previous Congress. That switch required unanimous consent under Senate rules.

Rumors are circulating on Capitol Hill that McCain plans to force a new vote by using the same tactics if his party leadership requires his vote on some key procedural matter this summer. It is also rumored that Senator John F. Kerry (D-Massachusetts) is urging his 10 Democratic colleagues who voted no on S. 139 last October to switch their votes and thereby pass the bill. It is surmised by some Senate staff that the Kerry Presidential campaign believes this outcome would help Kerry and hurt President George W. Bush in the election.

EIA Finds Bill More Costly than Iraq War

The McCain-Lieberman bill would have significant economic costs, according to a new analysis by the Energy Information Administration. The estimated price tag, according to EIA, is $776 billion.

EIA's estimate of the total cost of S. 139 as originally introduced was a principal factor in Lieberman and McCain's decision to drop their proposed second phase of emissions reductions when they offered their bill on the Senate floor last October. That amended bill, SA 2028, is what McCain has pledged to bring to a vote before the session closes.

The new analysis by EIA, which is the independent analytical arm of the U.S. Department of Energy, was done at the request of Senator Mary Landrieu (D-Louisiana). Landrieu recently said she was thinking about changing her vote from no to yes if SA 2028 comes to a floor vote.

The EIA analysis concluded that, under SA 2028, the price to emit a metric ton of carbon equivalent would rise from $55 in 2010 to $167 in 2025, compared with a growth from $79 to $221 over the same period under S. 139 as originally introduced.

SA 2028 would have little effect on the natural gas sector, but would significantly affect the gasoline, electric power, and coal sectors. Gasoline prices would rise 9 percent by 2010 and 19 percent by 2025. The price of electricity (cents per Kwh) would rise from the reference case of 6.42 to 6.82 in 2010 and 9.09 in 2025.

Under S. 139, the coal industry would have been badly hit, reducing production by 14 percent in 2010 and 78 percent in 2025 compared to the baseline scenario. The impact under SA 2028 is still severe, with production dropping by 8 percent by 2010 and 59 percent by 2025. Under SA 2028, EIA expects the price of a short ton of coal to increase from $24.41 to $107.96 in 2025, an increase of 366 percent.

Those price increases would have a negative effect on the economy. The cumulative GDP loss from 2004-2025 would be $776 billion, with a peak annual loss of $76 billion in 2025. When discounted to present value at 7 percent, the cost of the program to the economy in 2025 amounts to $290 billion. Congress has appropriated $135 billion to pay for the costs of the war in Iraq.

Myron Ebell oversees global warming and international environmental work at the Competitive Enterprise Institute **(http://www.cei.org)**. *He also chairs the Cooler Heads Coalition, a subgroup of the National Consumers Coalition that focuses on climate change issues.*

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Mississippi River May Get New and Upgraded Locks

by John Skorburg

After 12 years of studying the Upper Mississippi River System, the U.S. Army Corps of Engineers released its $70 million analysis on March 6. The Corps is recommending construction of seven new 1,200-foot locks along the waterway and the expansion of five existing ones. The current locks, constructed in the 1930s, are not large enough to accommodate what is today a typical barge tow of 15 barges.

The seven new lock and dam locations were pegged for immediate pre-engineering design. "The sense of urgency comes from the fact that the system out there is limping along right now," Lt. Gen. Robert Flowers, Corps Chief of Engineers, told the Associated Press in a recent interview. "The fear we have is that we'll have some catastrophic breakdown in the system, which will have a major economic impact."

The Corps' recommendations must be approved by Congress. Half of the estimated $2.4 billion construction cost would be paid by shippers through the Inland Waterway Trust Fund. Additional measures aimed at ecosystem restoration would cost roughly $5.3 billion and would be primarily federally funded.

Welcomed by Most

Christine Favilla, Three Rivers project manager for the Piasa Palisades Group of the Sierra Club, headquartered in Alton, Illinois, charged the ecosystems of the Mississippi waterway rivers have been degraded by the system's 29 locks and dams, barge traffic, pollution, and flood plain development.

"This is clearly not a sustainable project," she said.

But the Corps' plan was welcomed by the Midwest Area River Coalition (MARC) 2000, a diverse group of agriculture, manufacturing, labor, economic development, recreation, transportation, and shipping interests who lobbied heavily in support of the improvements to the waterway.

"It's good news, it's consistent with what we have been told by [the Corps] study team, it's in the direction they were heading," said Chris Brescia, president of MARC 2000. "It puts us in the ball game.

"Traffic from the upper Mississippi contributes to a trust fund that makes up 40 percent of its dollars, but we only see 15 percent come back for new construction. This proposal sets the stage for us to recoup the investment the industry has made for the infrastructure.

"Virtually all the locks were built in the 1930s, using 1930s technology," Brescia said. "We are not using roads built in the 1930s, our airplanes or airports no longer rely on technology from the 1930s. It's time to put modern locks at key locations on the river."

"The American farmer's competitive advantage has always hinged on efficient transportation," said Rick Tolman, CEO of the National Corn Growers Association and chairman of MARC 2000. "If U.S. farmers are to compete successfully with foreign competitors, they must be able to deliver their commodities to overseas markets via barge transportation. And unless this system is upgraded, barge delays will continue and the cost of American farm commodities will increase."

"For more than a decade the agriculture industry has fought for the improvement of locks on the Mississippi and Illinois rivers," said Bob Stallman, president of the American Farm Bureau Federation. "We applaud the Corps for pushing forward with this effort. Farmers, ranchers, and the U.S. economy will benefit from this plan."

U.S. agriculture depends heavily on the inland waterways to transport farm commodities to overseas markets. One-third of U.S. agricultural production is exported, and more than 60 percent of those exports depend on barge transportation through the Mississippi and Illinois rivers.

A single barge can hold as much as 58 semi-trucks. Water transport is cheaper and emits up to 60 percent fewer pollutants than other forms of transport. "We spend a lot of time developing international markets for exports of our products," noted Stallman. "We need to be able to deliver and service these markets when they're open for business."

Economic Development Boom

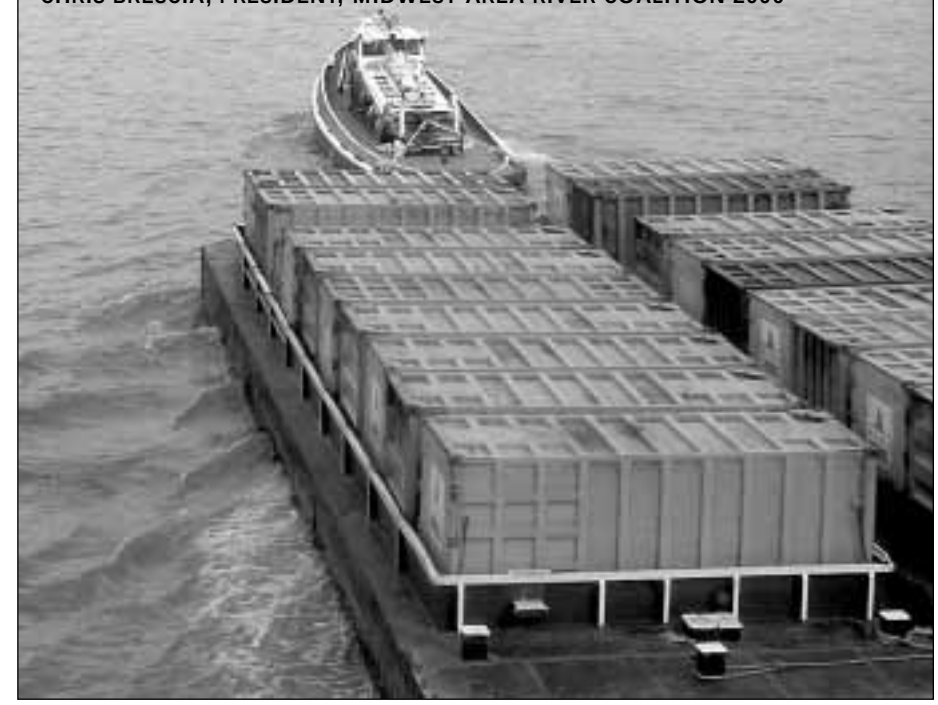
Paul Rohde, a spokesman for MARC 2000, pointed to the employment benefits of the Corps' proposal. "Anybody that does carpentry, that is a finisher, a pile driver, a laborer, a cement mason, you're looking at a generation's worth of labor needed to build those locks," Rohde said. "And the people who build the locks and dams spend their money. All those towns—Alton, Grafton, Hannibal, and farther up north—are going to benefit from not only the job creation but having more efficient river transportation for decades to come.

"The St. Louis area, including Alton, still is the second-largest inland port in the country," Rohde said. "That's jobs. That's economic activity that our region desperately needs. We have an opportunity to bring good, quality, high-paying jobs into the region instead of having jobs being exported."

John Skorburg is managing editor of Budget & Tax News. *His email address is* **skorburg@heartland.org**.

"Virtually all the locks were built in the 1930s, using 1930s technology. We are not using roads built in the 1930s, our airplanes or airports no longer rely on technology from the 1930s. It's time to put modern locks at key locations on the river."

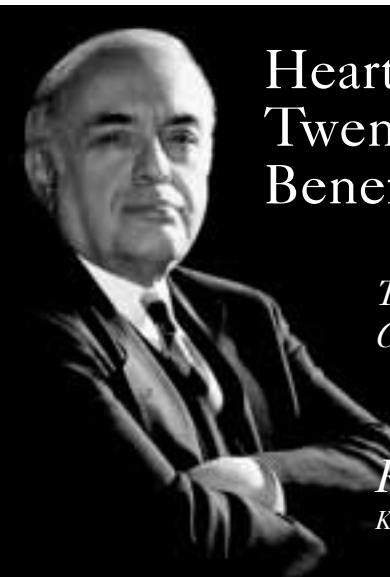
CHRIS BRESCIA, PRESIDENT, MIDWEST AREA RIVER COALITION 2000



INTERNET INFO

For more information visit the Midwest Area River Coalition 2000 Web site at **http://www.marc2000.org/**.

The Army Corps of Engineers' report is available online at **http://www2.mvr.usace.army.mil/umr-iwwsns/**.



Heartland's Twentieth Anniversary Benefit Dinner

Thursday, September 23, 2004
Chicago Hilton Hotel

Robert Novak
Keynote Address

Illinois native Robert Novak will deliver the keynote address at Heartland's twentieth anniversary benefit dinner on Thursday, September 23, 2004, at the Chicago Hilton Hotel.

Novak writes "Inside Report," a syndicated column he launched with Rowland Evans in May 1963. His article is currently syndicated to more than 300 newspapers nationwide. Novak is also a contributing editor to *Reader's Digest*.

Novak will be joined by *Wall Street Journal* editorial writer John Fund, Heartland Founder and Chairman Emeritus Dave Padden, and Heartland President Joseph Bast. Tickets and table reservations are now on sale.

For more information call The Heartland Institute at 312/377-4000
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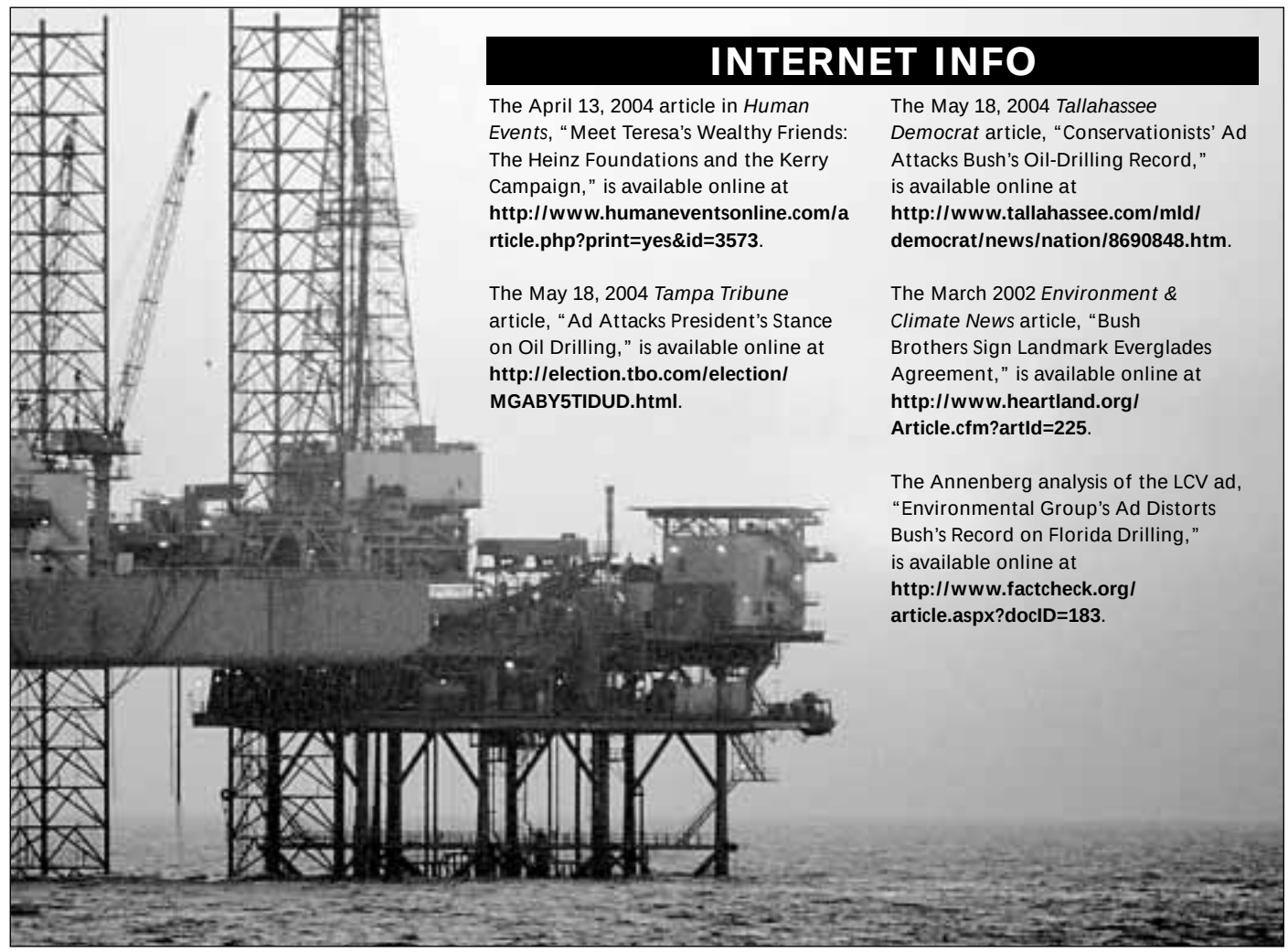
LCV Launches Misleading Anti-Bush Ads in Florida

by James M. Taylor

A new television ad produced by the League of Conservation Voters (LCV), a liberal advocacy group, has thrust Florida's environment, and especially its offshore oil resources, into the national spotlight. At issue are false claims, with ties to the Kerry Presidential campaign, that President George W. Bush is favoring, and allowing, oil drilling off the Florida coast.



INTERNET INFO

The April 13, 2004 article in *Human Events*, "Meet Teresa's Wealthy Friends: The Heinz Foundations and the Kerry Campaign," is available online at **http://www.humaneventsonline.com/article.php?print=yes&id=3573**.

The May 18, 2004 *Tampa Tribune* article, "Ad Attacks President's Stance on Oil Drilling," is available online at **http://election.tbo.com/election/MGABY5TIDUD.html**.

The May 18, 2004 *Tallahassee Democrat* article, "Conservationists' Ad Attacks Bush's Oil-Drilling Record," is available online at **http://www.tallahassee.com/mld/democrat/news/nation/8690848.htm**.

The March 2002 *Environment & Climate News* article, "Bush Brothers Sign Landmark Everglades Agreement," is available online at **http://www.heartland.org/Article.cfm?artId=225**.

The Annenberg analysis of the LCV ad, "Environmental Group's Ad Distorts Bush's Record on Florida Drilling," is available online at **http://www.factcheck.org/article.aspx?docID=183**.

Kerry Front Group?

The wife of Democratic Presidential candidate Senator John M. Kerry, Teresa Heinz Kerry, inherited a fortune from her first husband, ketchup heir H. John Heinz III. She is currently a board member of three Heinz foundations that give large cash grants to environmental activist groups and are worth, according to IRS tax records, more than $1 billion.

According to *Human Events*, "Heinz foundation grants pay for groups sponsoring thinly disguised anti-business drives and partisan political campaigns. The most important group is the League of Conservation Voters (2001 revenue—$2.3 million), a political advocacy group that monitors office-holder voting records, coordinates issue campaigns, and mobilizes voters."

In January 2004, LCV formally endorsed John Kerry for President, although other Democratic hopefuls at the time, including former Vermont Governor Howard Dean, appeared to have more support among environmental activists.

According to *Human Events*, "By late January, LCV had also given $18,528 directly to the Kerry Campaign. By mid-February, League political director Mark Longabaugh said the group had spent 'six figures' on TV ads promoting Kerry's candidacy. By contrast, in 2000 LCV waited until April before endorsing Al Gore, whose environmental reputation was far greater than Kerry's."

"Stop the Drilling"

This spring, after Kerry cemented his position as presumptive Democratic Presidential nominee, LCV produced and coordinated an anti-George Bush television ad campaign that has outraged political observers. LCV ads run in major Florida television markets mislead voters into believing Bush has authorized a new oil drilling campaign off the Florida coast. To the contrary, Bush has put the brakes on a preexisting plan, initiated by former President Bill Clinton, that would have allowed oil drilling precariously close to Florida beaches.

Reported the *Tampa Tribune* on May 18, "Although no oil platforms exist anywhere off Florida's coast, environmentalists are defending a new political ad set to begin airing today that features a narrator imploring President Bush to 'stop the drilling.'"

LCV claims in its commercial that "President Bush opened up Florida's coast to offshore drilling."

But Florida Governor Jeb told the *Tallahassee Democrat* on May 18, "The predevelopment (on those leases) was done in the Clinton administration and George W. Bush stopped that in its tracks."

The LCV commercial refers to 6 million acres of undersea land in the Gulf of Mexico that was opened up for exploration and development by the Clinton administration. Shortly after taking office, Bush removed 75 percent of the acres, including those closest to the Florida shoreline, from potential development, leaving just 1.5 million deep sea acres left for resource recovery.

"Political observers predicted the ads would backfire on Bush critics by calling attention to the President's record of safeguarding Florida's environment."

Too Long to Reverse Clinton?

LCV responded to a firestorm of criticism about the ad's false claims by asserting Bush waited too long into his term to block drilling in the Gulf. The League also justified its ad by arguing Bush's plan to create a 100-mile buffer between oil recovery and Florida beaches is irresponsible. The Clinton administration had implemented a 17-mile buffer.

"It's still 100 miles off the coast of Florida," said Longabaugh.

Said LCV President Deb Callahan, "The Bush administration has been pro-drilling since Day One. I assure you, there certainly is no ambiguity about that."

Political observers predicted the ads would backfire on Bush critics by calling attention to the President's record of safeguarding Florida's environment.

As reported in the May 2002 issue of *Environment & Climate News*, President Bush teamed with Governor Bush in January 2002 in a landmark state-federal agreement that extended unprecedented environmental protections to the Florida Everglades.

Focus on Florida Environment

Noted the *Tampa Tribune*, "During Gov. Bush's 2002 re-election campaign, President Bush anted up $235 million in federal money to shelter Florida's Everglades and beaches from oil and gas drilling.

"The second half of the deal," reported the *Tribune*, "was a $115 million settlement buying out nine oil and gas leases to preclude drilling in areas closest to Pensacola." Kerry, by contrast, has done little to safeguard the Florida environment and has alarmed some environmental activist groups with his political positions.

In a 2001 *Los Angeles Times* column, Kerry said drilling for oil in the Gulf of Mexico was preferable to drilling in the Arctic National Wildlife Refuge (ANWR).

"The country does need to increase domestic oil production but, given its limited benefits, we should expand production in an environmentally sound manner—protecting the ANWR but exploring the more than 25 million undeveloped acres in the Gulf of Mexico ...," wrote Kerry on December 3, 2001.

In April 2004, Kerry confirmed his support for Gulf of Mexico drilling, telling a reporter for a Florida college newspaper that he supported deepwater drilling in the Gulf. "I thought the answer was pretty clear," Kerry confirmed to reporters after the Florida college newspaper story broke, "that in those places where it's been approved, I support it."

"At least some environmentalists in Florida found Kerry's answer disappointing," reported the *Tampa Tribune* on April 24.

Kerry missed "a great opportunity to say to the people of Florida, 'No drilling under my watch,'" Mark Ferrulo of the Florida Public Interest Research Group told the *Tribune*.

Ferrulo's colleague at the U.S. Public Interest Research Group, Athan Manuel, had praised President Bush's 100-mile buffer proposal. FactCheck.org, a campaign ad watchdog project of the Annenberg Public Policy Center, quotes Manuel as saying Bush "turned his back on the oil industry and listened to the people of Florida." The Annenberg site concludes the LCV ad "distorts Bush's record on Florida drilling."

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

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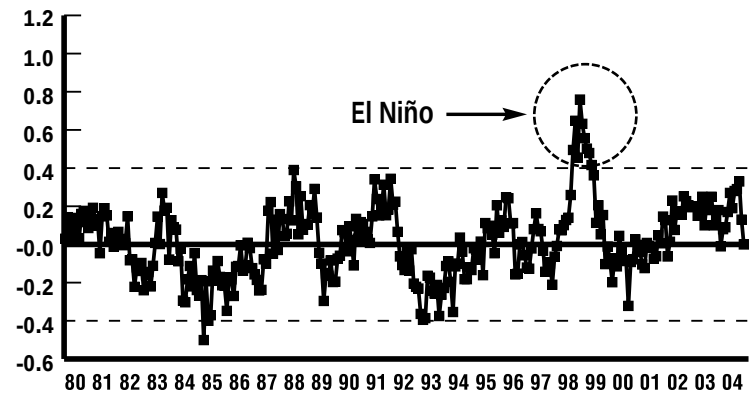
GLOBAL SATELLITE TEMPERATURES

EARTHTRACK

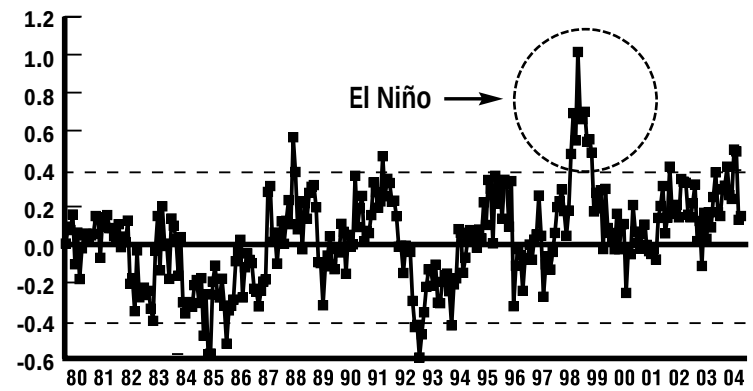
MAY 2004

The global average temperature (top) for May was 0.001˚C below normal.
The Northern Hemisphere's temperature (middle) was 0.15˚C above normal.
The Southern Hemisphere's temperature (bottom) was 0.16˚C below normal.

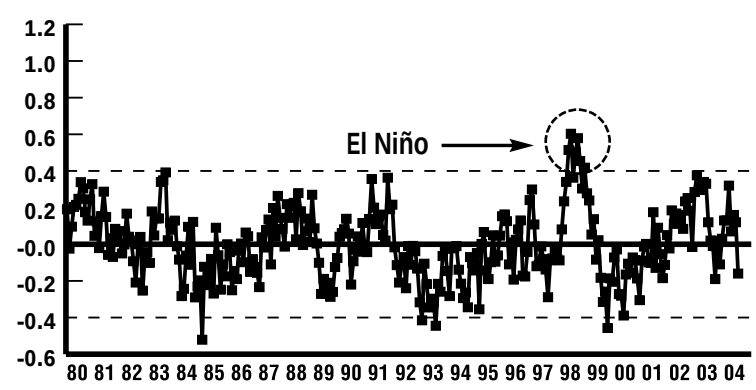
GLOBAL AVERAGE



NORTHERN HEMISPHERE



SOUTHERN HEMISPHERE



Each month, Earth Track updates the global averaged satellite measurements of the Earth's temperature. These numbers are important because they are real—not projections, forecasts, or guesses. Global satellite measurements are made from a series of orbiting platforms that sense the average temperature in various atmospheric layers. Here, we present the lowest level, which climate models say should be warming. The satellite measurements are considered accurate to within 0.01°C. The data used to create these graphs can be found on the Internet at **http://vortex.nsstc.uah.edu/data/msu/t2lt/tltglhmam_5.1**.

Nature Study Fails to Dent Satellite Data

Global temperatures show no net warming

by James M. Taylor

A study of global temperature data in the May 5 issue of *Nature* claims to solve a discrepancy between surface-station temperature readings and global temperature readings taken from orbital satellites. Experts reviewing the *Nature* study, however, say it fails to impugn the satellite readings.

Urban Heat Islands

Ever since the first temperature-reading satellite was launched in 1979, scientists have tried to explain the discrepancy between satellite and ground-based readings of global temperatures. Satellite readings have shown virtually no warming trend since 1979, while ground-based readings have registered significant warming.

According to scientific studies, the discrepancy results from an urban heat island effect. Concrete, factories, office buildings, and automobiles produce heat in and around cities, causing temperatures to be somewhat warmer than the surrounding region. Moderate warming trends at land-based weather stations, typically located at airports in and around growing cities, merely reflect the growing population of the nearby city, studies show.

The recent *Nature* study attempts to contest the urban heat island evidence and cast doubt on the satellite readings. To support their theory, the study's authors introduced a "fudge factor" that attempts to explain and dismiss a significant amount of documented atmospheric cooling.

Fudging the Numbers

The fudge factor, say experts, is where the *Nature* authors go wrong.

"You can't subtract more signal than is there, but that's what they've done," said Dr. Roy Spencer, a principal research scientist in the Earth System Science Center (ESSC) at the University of Alabama in Huntsville (UAH).

The problem, said Spencer, is that the study's fudge factor removes more stratospheric cooling than actually appears in the data, thus creating a spurious warming signal.

"Simply put, this method overcorrects for stratospheric cooling," said Dr. John Christy, a professor of atmospheric science at UAH and director of the ESSC. "We tried this same technique in the early 1990s but it didn't work.

"Instead," said Christy, Dr. Spencer "developed a method for accurately removing stratospheric temperatures from the data and we published that in 1992."

According to UAH researchers, the satellite sensors show a long-term warming trend in the lower atmosphere of only about 0.08º C per decade [about 1.4ºF per century] in the past 25 years. That trend has been corroborated by U.S., British, and Russian studies comparing satellite data to temperature data gathered by weather balloons.

"This is the second time in nine months that these journals have let papers be published in the satellite temperature monitoring field that had easily identifiable errors in their methodology."

DR. ROY SPENCER
EARTH SYSTEM SCIENCE CENTER
UNIVERSITY OF ALABAMA IN HUNTSVILLE

Peer Review Lacking

"This kind of mistake would not get published with adequate peer review of manuscripts submitted for publication," observed Spencer. "But in recent years, a curious thing has happened. The popular science magazines, *Science* and *Nature*, have seemingly stopped sending John Christy and me papers whose conclusions differ from our satellite data analysis.

"This is in spite of the fact that we are (arguably) the most qualified people in the field to review them. This is the second time in nine months that these journals have let papers be published in the satellite temperature monitoring field that had easily identifiable errors in their methodology."

Added Spencer, "A paper claiming to falsify our satellite temperature record has been published in the 'peer reviewed' literature, and the resulting news reports will never be taken back. This is one reason increasing numbers of scientists regard *Science* and *Nature* as 'gray' scientific literature."

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

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Russia

Continued from page 1

Protocol. We will speed up Russia's movement toward the Kyoto Protocol's ratification."

Yet he also said two other things that have not been as widely reported. As the *Los Angeles Times* was careful to point out, "Putin stopped short of pledging a positive vote on ratification, cautioning that his government still had concerns about the 'obligations' imposed by the treaty. He also said it was still 'not 100% certain' parliament would endorse the Kyoto treaty."

None of this should come as a surprise, as this is the same line his government has followed since it stepped back from the treaty in October last year. No Kremlin official has ever said Russia would not ratify Kyoto. Even Andrei Illarionov, the Putin advisor most vocal in his opposition to what he terms "Kyotoism," has never claimed rejection of the treaty was imminent.

Economic Disparity, Dubious Science

Russian officials have continually stressed their concerns about the obligations Russia would have to take on, just as Putin did on May 21. That qualification is often accompanied by claims the protocol is "discriminatory" against Russia. Unlike Russia, such nations as China, Brazil, and India are exempt from obligations under the pact, and those are the nations Russia now views as its chief economic competitors.

Those concerns clearly remain. Indeed, they were strengthened during the last week of May when the Russian Academy of Sciences (RAS) issued a report that disputed the scientific basis of the Kyoto Protocol and argued it would be economically harmful to Russia. The summary of scientific opinion noted the "absence of scientific substantiation of the Kyoto Protocol and its low effectiveness for reducing the concentration of greenhouse gases in the atmosphere, as is envisaged by the UN Framework Convention on Climate Change," and again stated, "the requirements of the Kyoto Protocol are of a discriminatory character, and its mechanisms involve economic risks for Russia."

Yuri Izrael, the distinguished climatologist who authored the summary, which was presented at a general meeting of the RAS, said, "The protocol is ineffective for attaining the goal set by it—the stabilization of the ecological situation and the world economy."

Professor Oleg Sorokhtin from the RAS's Institute of Oceanography was quoted by the Russian news agency TASS as saying, "The Kyoto Protocol is not needed at all, as even considerable emissions of carbon dioxide in the atmosphere have almost no effect on the Earth's temperature but contribute to agricultural productivity and to the restoration of forest resources."

"With scientific backing for his advisors' concern about the effects of the protocol and the opposition of the Duma, it would seem President Putin left enough get-out clauses in his May 21 announcement to ensure Russia does not have to go through with ratification."

Putin's Escape Clauses

A caveat Putin mentioned in his pledge to the EU was the role of the State Duma, Russia's parliament, which his party, United Russia, dominates. In April, three Duma committees—for ecology, the economy, and international affairs—issued a joint statement that, "Ratification [of the protocol] is inexpedient given the U.S. pullout and the non-participation of many countries with high levels of man-made impact on climatic processes." The Duma is clearly no fan of the economic effects of the treaty, although its independence from Putin is questionable.

The involvement of the Duma raises another interesting issue related to Russia's internal politics and the perception of Putin's rule as authoritarian. Vladimir Milov, head of the Institute of Energy Policy, told newspaper *Vremya Nostoy* on May 25, "I am not convinced that the books on this matter have been closed. The president gave quite a transparent hint, saying that this should be decided by parliament. This is generally a good argument for showing that there is in Russia democracy and a parliament, which might not agree with the opinion of the president. Considering the overall negative background in respect to the Kyoto Protocol, there could, in my view, be a serious continuation of the parliament 'story.'"

With scientific backing for his advisors' concern about the effects of the protocol and the opposition of the Duma, it would seem President Putin left enough get-out clauses in his May 21 announcement to ensure Russia does not have to go through with ratification. Indeed, the announcement that the Academy of Sciences is to make a further report suggests this was anticipated.

Iain Murray is a senior fellow at the Competitive Enterprise Institute **(http://www.cei.org)**. *His email address is* **imurray@cei.org**.

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by Jay H. Lehr (editor)
Science Director,The Heartland Institute

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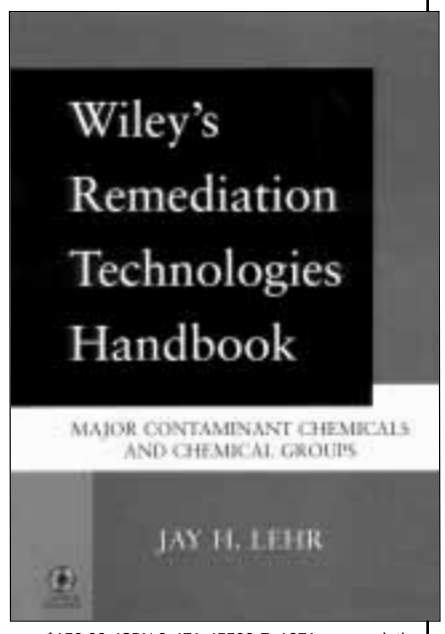

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Global Warming Takes Undeserving Place on Group's "Top 10 Challenges" List

by S. Fred Singer

The Copenhagen Consensus project, recently organized by Denmark's Environmental Assessment Institute and spearheaded by Björn Lomborg, author of *The Skeptical Environmentalist*, has issued a top 10 list of what it describes as some of the world's biggest concerns. The list includes climate change, although many economists and scientists would disagree.

Prioritizing Countless Challenges

The Copenhagen Consensus aims to consider and establish priorities among a series of proposals for advancing global welfare. Notes the group's manifesto, "The world is faced with a countless number of challenges such as diseases, environmental degradation, armed conflicts, and financial instability. Copenhagen Consensus takes a new and critical-analytical approach to assessing the effects of international opportunities for solving the challenges."

In Copenhagen, nine outstanding acknowledged economic experts will gather to discuss, analyze, and rank opportunities corresponding to each of the 10 challenges identified by the group:

- climate change
- communicable diseases
- conflicts
- governance and corruption
- education
- financial instability
- malnutrition and hunger
- population and migration
- sanitation and water
- subsidies and trade barriers

Ten specialists have each prepared a background paper on a challenge within their field of research in order to provide the experts with the best and most recent information.

It is not a simple matter to address, or even identify, the 10 greatest challenges facing humanity. Allocating resources to remedial projects so as to maximize total net benefits to humanity is a grand academic exercise.

Global Warming in Dispute

Everyone sees great challenges differently. Certainly, malnutrition and hunger, sanitation and water, and even communicable diseases could all be subsumed under the heading of poverty. And most would agree that tackling any problems of climate change require adaptation—again best handled by overcoming poverty.

There is lively ongoing scientific debate on whether the climate is really warming, whether human influence is significant, and whether a future warming is good or bad. On that last question, a group of prestigious economists already has concluded that a modest greenhouse warming is on the whole beneficial and will raise standards of living.

Lomborg seems to have reached a different conclusion about the science, although he is absolutely correct about the high cost and complete ineffectiveness of mitigation schemes like the Kyoto Protocol and similar efforts to restrict the use of energy fuels.

"The panel looked at three proposals, including the Kyoto Protocol, for dealing with climate change by reducing emissions of carbon," notes Myron Ebell, who oversees global warming policy at the Competitive Enterprise Institute. "The expert panel regarded all three proposals as having costs that were likely to exceed the benefits. The panel recognized that global warming must be addressed, but agreed that approaches based on too abrupt a shift toward lower emissions of carbon are needlessly expensive."

And on the science, Lomborg is correct on at least one point. Atmospheric levels of carbon dioxide (CO2) are increasing as the result of fossil-fuel burning to drive cars, heat homes, and generate electric power. Levels of atmospheric CO2 will continue to increase, especially as China and India become more prosperous. At best, we might be able to slow somewhat the rate of increase—at great cost. Is that worth doing?

A Fight Worth Fighting?

The issues here are scientific, economic, and political. Will the temperature increase be insignificant, important, or (as science fiction addicts imagine) catastrophic? We can study the result of the 50 percent rise in greenhouse gases that currently affects our climate.

The data are still in dispute but I believe, as do many other scientists, that the effect has been minor. We can expect a warming of perhaps 0.5° C by 2100, at most one degree—detectable but not unusual. The climate warmed by 0.6° C between 1900 and 1940.

Is a warmer climate good or bad? Many credible economists calculate that a modest warming, coupled with higher levels of atmospheric CO2, will raise GDP and standards of living worldwide. Lomborg's Copenhagen group of economists may be able to achieve consensus on that issue.

Will nations be willing to suffer the economic burden of energy rationing and higher prices necessary to curtail CO2 emissions? The United States, Australia, and Russia say no, and so do developing countries that want to overcome poverty.

I continue to be puzzled by those who consider greenhouse warming a major problem requiring heroic measures—beyond the traditional adaptation to climate change that has worked well for humanity though the ages.

It is worth noting that concern over many of these great challenges tends to be short-lived. A decade ago, ozone depletion and acid rain were all the rage; two decades ago it was nuclear winter; three decades ago, as global temperatures were dropping, there was great fear about a coming ice age. Throughout the past decades there have been concerns about over-population, imminent resource depletion and famines, poisoning of the oceans, cancer epidemics from industrial chemicals, etc. It is safe to predict most such fears will continue even when all the evidence points the other way.

"The Consensus ranked four projects as representing good value for money," Ebell has pointed out. "They were: new programs to prevent the spread of HIV/AIDS; reducing the prevalence of iron-deficiency anemia by means of food supplements; reducing multilateral and unilateral tariffs and non-tariff trade barriers, together with the elimination of agricultural subsidies; and the control and treatment of malaria."

Curiously, the Copenhagen list omits terrorism. There are indeed some observers, like Sir David King, chief science advisor for the United Kingdom's Office of Science and Technology, who consider terrorism a lesser threat than global warming. Hans Blix, former United Nations' weapons inspector in Iraq, reportedly fears global warming more than weapons of mass destruction.

Perhaps the Copenhagen meeting, a laudable exercise in rational decision-making, will put global warming fears to rest. And one can always hope the release of the climate-horror film, "The Day after Tomorrow," will convince the public that global warming is mostly science fiction.

S. Fred Singer is professor emeritus of environmental sciences at the University of Virginia, former director of the U.S. Weather Satellite Service, and president of the Science & Environmental Policy Project **(http://www.sepp.org)**. *He is the author of* Hot Talk, Cold Science: Global Warming's Unfinished Debate *(Independent Institute, Oakland, California). His email address is* **singer@sepp.org**.

INTERNET INFO

For more information on the Copenhagen Consensus, visit its Web site at **http://www.copenhagenconsensus.com/**.

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Marathon Oil Successfully Fighting Malaria in Equatorial Guinea

INTERNET INFO

For more information visit the malaria control project's Web site at **http://www.marathon.com/Our_Business/Marathon_Oil_Company/Exploration_Production/Equatorial_Guinea/Malaria_Control_Project/**.

by James M. Taylor

Marathon Oil Corporation is showing environmental leadership in fighting one of the deadliest of human killers. Since June 2003, Marathon has partnered with Noble Energy, Medical Care Development International (MCDI), and the Government of Equatorial Guinea in implementing a comprehensive malaria control project for the nation.

Program Specifics

The five-year, $6.8 million initiative is designed to:

- Reduce the transmission of the malaria parasite through mosquito control programs and improved preventive measures at the household and community level;
- Improve the health care delivery system for malaria cases by establishing malaria treatment centers that will use standardized protocols for diagnosis, treatment, and referrals; and
- Enhance surveillance systems and operational research to strengthen Equatorial Guinea's capacity to conduct surveys and implement an effective reporting and monitoring system.

The initiative began by focusing on Bioko Island and the capital city of Malabo in order to exploit the natural advantages the island provides for transmission control. Late last year, the program was expanded to include malaria control activities on the mainland of Equatorial Guinea.

"After our entry into the country ... we quickly discovered malaria is a significant health risk threatening the population of Equatorial Guinea," said Steven Hinchman, Marathon's senior vice president of production operations. "We saw an opportunity to make a dramatic impact by supporting a comprehensive survey of malaria on the island, and we are working with the government to adopt a plan to address solutions. This effort represents a positive step in collaboration between the government and the private sector to help control malaria and demonstrates our commitment to supporting the communities in which we operate."

Government Praises Companies' Leadership

Dr. Justino Obama Nve, Minister of Health and Social Welfare, expressed appreciation for Marathon and Noble's support for Equatorial Guinea's National Strategy to Fight Malaria (NPFM).

"This effort represents a positive step in collaboration between the government and the private sector to help control malaria and demonstrates our commitment to supporting the communities in which we operate."

STEVEN HINCHMAN
MARATHON OIL CORPORATION

"The NPFM has been set up to coordinate and channel all efforts related to the fight against malaria in our country," Nve noted. "The community's cooperation and involvement in the fight against malaria is critical to ensure preventative measures, early diagnosis, and prompt and effective treatment of this disease. Marathon and Noble's partnership in this effort will greatly strengthen our local capabilities."

Rodney Cook, Noble Energy's Middle East and Africa Business Unit Manager, added, "We believe this joint effort will contribute significantly to the overall health and quality of life of the people of Equatorial Guinea. Malaria represents one of the country's greatest health risks. By establishing high-quality treatment centers and reducing transmission of the disease, the government of Equatorial Guinea and businesses operating locally are working together to provide important health-related services where they are needed most."

"MCDI's collaboration with Marathon, Noble Energy, and the Government of Equatorial Guinea represents a unique opportunity for a US-based international NGO/PVO (non-governmental organization/private voluntary organization) to work in partnership with the corporate sector," noted Joseph Carter, director of the International Division of MCDI. "MCDI believes this malaria control program on Bioko Island represents a wonderful example of opportunities that exist when the mission statements of multiple organizations converge to improve the health of those in need."

Marathon established a new core production area of operation in Equatorial Guinea in January 2002. Along with its partners in the Alba field, Noble Energy and GEPetrol, the national oil company of Equatorial Guinea, the company has announced two expansion projects that will substantially increase production of gas condensate and liquefied petroleum gas (LPG).

MCDI has a long history of working in Africa and other developing areas and touts the malaria control partnership as a way to improve the well-being of Bioko Island inhabitants. The group's leaders have expressed hope the partnership represents a model that can be replicated for the benefit of people in other parts of Equatorial Guinea and potentially other countries in Africa. MCDI encourages partnerships that permit NGOs to support corporate social responsibility objectives in the private sector.

DDT Ban Sparked Malaria Resurgence

The malaria control project is especially timely in light of a global resurgence of malaria after anti-chemical activist groups successfully lobbied for a widespread ban of the pesticide DDT.

In the 1970s, the use of DDT was banned in the U.S. and many other countries based on fears the pesticide was harming wildlife. Since the ban, scientific evidence has shown DDT is a relatively safe pesticide and has no connection to the environmental harms alleged in the 1970s. Even the *New York Times*, which rarely embraces a position counter to that taken by radical environmental activist groups, has called for DDT's return.

Using statistics provided by the World Health Organization, Steven Milloy, an adjunct scholar at the Cato Institute and founder of the junkscience.com Web site, which specializes in debunking false environmental scares, reports that since the early 1970s, more than 12 billion persons have contracted malaria. More than 86 million of them have died.

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

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Hybrids' Disappointing Mileage Confou

by Iain Murray

Hybrid cars are the flavor of the moment for environmental activists and some state legislators, particularly on the east and west coasts. California, Connecticut, Maine, Massachusetts, New York, Rhode Island, and Vermont have enacted low-emission vehicle programs, and several other states are considering doing so. The programs use a combination of taxpayer subsidies and outright mandates that encourage and sometimes force automakers to build, and consumers to buy, gas-electric hybrid vehicles.

False Mileage Promises

Motivating the state laws are EPA mileage estimates that tell consumers they will achieve significantly greater fuel economy from hybrid vehicles. For example, EPA estimates Honda Civics with conventional engines will achieve approximately 34 miles per gallon, while Honda Civics with hybrid engines will achieve 48 miles per gallon. Consumers pay an extra $4,300 to $6,600 up front for the hybrid vehicles, but they expect to recoup that money according to the EPA fuel efficiency estimates.

Environmental activists like Arianna Huffington, Larry David, and Leonardo DiCaprio urge us all to "break the chain" and drive hybrid cars. Al Gore used previews of the scientifically implausible disaster film, "The Day after Tomorrow," to commend hybrids, saying, "I think the new fuel-efficient vehicles represent ethical choices."

Yet there are a few problems with this dream of a hybrid tomorrow. Surveys show people are highly resistant to hybrid cars; those who own hybrids are starting to realize they aren't quite as fuel-efficient as advertised; and a new study finds lack of access to affordable cars hurts minority employment.

Little Appeal Beyond Activists

Global marketing information firm J.D. Power and Associates recently completed a survey, the 2004 Consumer Acceptance of Alternative Powertrains Study, that looked at what motivates people to choose hybrids, conventional gasoline cars, or clean diesel-powered autos. The study revealed current hybrid owners are very different from conventional car owners:

"The attitudes and opinions about economics, technology, and the environment held by owners of hybrid-electric cars distinguish them from the other groups. Issues on which the owners of hybrid-electric cars hold extreme positions are: interest in helping reduce vehicle pollution, willingness to pay extra for 'green' products, and thinking of oneself as an avid recycler. Owners of hybrid-electric cars also have the most extreme expectations that fuel prices will be higher in the future."

It should come as no surprise that current hybrid car owners tend to be pessimists who think "green." That should also underscore that people who don't think "green" are much less likely to turn to hybrids. Value-for-money is more important to most people, and the additional cost attached to hybrids puts many off.

Consumer Backlash

Pete Blackshaw was particularly passionate about hybrid technology and greater fuel efficiency when he bought his Honda Civic Hybrid, so much so that he started a blog on the subject. His experiences did not turn out the way he expected, and he encountered the problem of lower-than-expected fuel efficiency coupled with inadequate customer support from Honda.

"I feel like a complete fraud driving around Cincinnati with a license plate that says MO MILES," said Blackshaw, who explained to Wired.com that after 4,000 miles his car has never achieved more than 33 mpg on any trip. The tenor of Blackshaw's blog shifted from adulation to frustration after his Honda dealer confirmed his car was functioning properly and there was nothing he could do to improve his mileage.

John DiPietro, a road test editor for the automotive Web site Edmunds.com, explained in a recent article on Wired.com ("Hybrid Mileage Comes Up Short," May 11, 2004) that hybrid drivers rarely experience the actual miles per gallon advertised by EPA.

State Voters Balk at Shouldering Renewable Power Mandates

by James M. Taylor

Significantly higher prices associated with "renewable" power generation have made it difficult for states to meet renewable power mandates imposed by their own elected officials. Currently, 13 states have enacted renewable power mandates, but few are finding citizens willing to shoulder the costs of such power.

Voluntary Efforts Failing

Arizona offers a typical example of citizens balking at the higher price of renewable power after the legislature passed a renewable power mandate.

Arizona power supplier APS allows citizens to choose their power from renewable or conventional sources. Solar power, the most efficient renewable power source in Arizona, costs $2.64 more per 15 kilowatts than power from conventional sources. In everyday terms, 15 kilowatts will power a small television for approximately five hours. Faced with the high cost of feel-good measures to increase renewable energy use, Arizona citizens have elected to purchase 99.9 percent of their power from conventional sources.

Arizona's 0.1 percent renewable power generation is particularly disappointing to supporters of renewable power mandates in other states. To win passage of the renewables mandate by the Arizona legislature, supporters had to choose an extremely low goal of 0.8 percent renewable power generation in 2004. With state residents unwilling to meet even this very low threshold, legislators in other states are wary of matching the Arizona mandate, much less the far higher mandates frequently advocated by renewable power advocates.

In the northeastern United States, power suppliers in New York and Massachusetts also give their customers the option of purchasing renewable power. In New York, only 0.6 percent of residents have agreed to pay the significantly higher costs of generating renewable power. Renewables are more popular in Massachusetts, where 1,790 of 1.2 million eligible customers—1.5 percent—have enrolled.

Political Fallout on the Horizon

With informed power customers unwilling to purchase expensive renewable power, feel-good voluntary programs designed to encourage a percentage of renewable power generation are morphing into mandatory programs by which customers are being forced to purchase higher-priced electricity, whether they choose to or not. Former supporters of renewable power programs are no longer as supportive of the various state programs.

"There is a tension between green tariffs and portfolio standards, that's for sure," said George Sterzinger, executive director of the Renewable Energy Policy Project.

Further tension is building as the more relentless renewable power advocates seek to interpret renewable mandates to require a threshold above and beyond the renewable power voluntarily purchased. They say green activists, who disproportionately choose to purchase renewable power, should not alone shoulder the higher costs. Having successfully persuaded power suppliers and state agencies in Iowa, Maine, Massachusetts, Minnesota, and Wisconsin to explicitly exclude voluntary power purchases from counting toward renewable power goals, they are lobbying heavily for other states to do the same.

"I do think as green marketing picks up and more states enact standards, this will become an issue," agreed Alan Nogee, energy program director of the Union of Concerned Scientists.

But the opponents of renewable power mandates aren't taking the new lobbying efforts sitting down.

"I believe that Renewable Portfolio Standards are the most insidious device yet devised by regulators and legislators and governors to create markets for renewable energy producers, shift the high costs to electric customers, and hide them in monthly bills," said Glenn Schleede, a former White House official and president of the Energy Market and Policy Analysis consulting firm.

"Participants in a wind opposition group that I help coordinate have learned of this and are objecting to their legislators," added Schleede.

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ounding State Laws

"[T]rying to force the issue, especially by calling it an 'ethical' matter, runs the risk of producing some very unethical outcomes, and some very unhappy voters."

Most automobiles would have actual miles per gallon performance of approximately 75 to 87 percent of EPA's rating. However, data from *Consumer Reports*' extensive road tests show the Honda Civic Hybrid and Toyota Prius averaged well under 60 percent of EPA's reported miles per gallon when operating on city streets. The Civic Hybrid was getting only 26 mpg in the city.

Weak Advice

After his blog was publicized on Wired and Slashdot, Blackshaw was deluged with a wave of advice on how to drive his car:

"Don't drive fast. Check the tires. Careful on hills. Don't drive fast. No quick starts. No short trips. Turn off air conditioner. Use cruise control. Don't drive fast. Don't use the stereo. Ignore the meter, focus on the actual tank! Read the manual! Wait for 5,000 miles. No speeding. Wait for 10,000 miles. No, 15,000 miles. ...

"I now feel smarter and wiser. But not terribly satisfied. I've tried just about every one of those tactics, with little success."

As Blackshaw points out, there is a serious problem if the cars are being marketed on the basis of fuel efficiency (and the J.D. Power study confirms that is the main reason anyone outside the environmentally committed would buy them) but they do not actually achieve the advertised efficiency (at least without having to adopt specialized driving habits). Blackshaw is right to call this a potential Achilles' heel in the advertising strategy for hybrids.

So those who are urging fuel efficiency laws that would have the effect of raising automobile prices, or who want everyone to drive already-expensive hybrids, might stop to consider the unintended consequences of their demands.

There's no doubt alternatives to the conventional gasoline engine (like clean diesel, which the J.D. Power study found more attractive to the ordinary consumer than hybrids) will become more affordable and practical as time goes by. But trying to force the issue, especially by calling it an "ethical" matter, runs the risk of producing some very unethical outcomes, and some very unhappy voters.

Iain Murray is a senior fellow at the Competitive Enterprise Institute. His email address is **iain@iainmurray.org**.

Geothermal Power Would Harm California, Claims Lawsuit

by James M. Taylor

The harnessing of geothermal power, one of the "renewable" resources frequently lauded by activist groups as an alternative to carbon-based fuels, will cause irreparable harm to California's most precious environmental resources, warns a coalition of environmentalist groups in a recently filed federal lawsuit.

Environmental Disruption

According to a lawsuit filed in the U.S. District Court for the District of East California, two proposed geothermal power plants in northeastern California will introduce "highly toxic acids" into geothermal wells in the state's Medicine Lake Highlands, turning the lands into "an ugly, noisy, stinking industrial wasteland."

The Medicine Lake Highlands are the remnant of an ancient volcano approximately 30 miles east of Mount Shasta and 10 miles south of the Lava Beds National Monument.

According to the *San Francisco Chronicle*, construction of the geothermal plants would include erecting 150-foot high drilling rigs, nine-story power plants on 15-acre pads, and seven-story cooling towers capped by steam plumes. Constructing and operating the plants would require crisscrossing the area with roads, high-tension transmission lines, and pipelines.

According to the federal suit, operating the geothermal plants will require injecting "highly toxic acids" into virgin geothermal wells to increase geothermal power production. That, the suit asserts, will create groundwater pollution and pose a threat to trout and other wildlife in the regional watershed. The geothermal plants themselves would require excavating 750,000-gallon toxic waste sumps. Moreover, trucks and drilling equipment would break the normal solitude of the region, the environmentalist groups say.

Toxic Waste a Problem

"Geothermal sites often are located in protected wilderness areas that environmentalists do not want disturbed," observed Robert Bradley, president of the Houston, Texas-based Institute for Energy Research. "Geothermal is not only a scarce, depleting resource, it has negative environmental consequences despite the absence of combustion.

"In some applications," explained Bradley, "there can be CO2 emissions, heavy requirements for cooling water—as much as 100,000 gallons per MW per day—hydrogen sulfide emissions, waste disposal issues with dissolved solids, and even toxic waste. Those problems and the location problem have caused some environmental groups to withhold support for geothermal since the late 1980s."

"Geothermal power plants tend to emit hydrogen sulfide (H2S)—which is toxic at fairly low levels—and mercury," said Tom Tanton, general manager for renewables and hydropower at the Electric Power Research Institute. "The level of emissions from geothermal are quite varied and depend on both the geothermal resource as the technology used and the geography."

Added Tanton, "Whatever is not reinjected into the ground can cause local groundwater pollution. Geothermal fluids are always foul smelling—they smell like very rotten eggs due to the H2S. The fluids are highly brackish and contain high levels of heavy metals."

Tanton also noted geothermal power plants are linked to increased seismic activity.

"The folks in Anderson, California, and other areas surrounding Geysers steamfield, the world's largest developed geothermal field, have fairly complained about induced seismicity brought about by geothermal operations," said Tanton. The seismic activity results when reinjected materials replace extracted steam, he explained.

In addition to the environmental harms of geothermal technology, operating the plants would require, according to Los Angeles television station KCBS, more than $50 million in taxpayer subsidies.

The plaintiffs in the suit include the Medicine Lake Citizens for Quality Environment, the Klamath Forest Alliance, the California Wilderness Coalition, and the Fall River Wild Trout Foundation. Together, the groups have formed an organization called the Save Medicine Lake Coalition.

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

"[C]onstruction of the geothermal plants would include erecting 150-foot high drilling rigs, nine-story power plants on 15-acre pads, and seven-story cooling towers capped by steam plumes."

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EPA Loses Clean Air Case against TVA

by James M. Taylor

The U.S. Supreme Court has refused to review an appellate court's determination that the Environmental Protection Agency (EPA) exceeded its authority in seeking to enforce a controversial interpretation of the Clean Air Act (CAA) against the Tennessee Valley Authority (TVA).

Clinton EPA Launched Retroactive Interpretation

In 1999, the Clinton administration EPA decided to retroactively enforce against TVA a new interpretation of New Source Review (NSR) requirements of the Clean Air Act. EPA claimed TVA violated NSR 14 times between 1982 and 1996 when it performed work on nine of its power plants.

At the time TVA performed its contested maintenance, the federal government's longstanding interpretation of NSR did not require TVA to obtain an EPA permit or install best-available pollution abatement technology. Nevertheless, EPA filed an "administrative compliance order" in 1999 ordering TVA to install expensive new equipment and pay hefty fines for the maintenance work it had done.

TVA objected to retroactive enforcement of the new NSR interpretation and ultimately filed a federal suit seeking to prevent EPA from enforcing its compliance order. According to TVA, EPA had acted in an "arbitrary and capricious" manner in interpreting NSR and issuing its compliance order.

Eleventh Circuit Blasts Enforcement Action

In a June 2003 decision, the Eleventh Circuit Court of Appeals ruled the Clinton administration had used an unconstitutional enforcement scheme in its action against TVA. The scheme was "employed on the fly, entirely ignoring the concept of the rule of law," observed the court.

Specifically, the court determined EPA administrative compliance orders may not impose the severe civil and criminal penalties EPA attempted to impose on TVA. Stated the court, "EPA must prove the existence of a CAA violation in district court; until then, TVA is free to ignore the ACO without risking the imposition of penalties for noncompliance with its terms." EPA could still, if it so desired, seek to enforce a compliance order against TVA, but to do so it must initiate a new action in federal district court.

Supreme Court Declines to Review

EPA, with the backing of Bush administration Solicitor General Ted Olson, filed a writ of certiorari, asking the U.S. Supreme Court to review and ultimately reverse the Eleventh Circuit's decision. On May 3, however, the Supreme Court issued a one sentence statement declining to review the case.

As a result of the Supreme Court's decision, it appears unlikely EPA or the Bush administration will pursue new action against TVA for its 1982-to-1996 maintenance work. Bush has decided not to follow the Clinton administration's NSR interpretation, and he has approved new guidelines that interpret NSR provisions in a manner largely consistent with EPA's interpretation before the Clinton administration.

Although the Bush EPA will not abandon pre-existing enforcement actions imposed under the Clinton administration's interpretation of NSR, the agency has stated it will not pursue any new actions seeking to enforce the Clinton interpretation.

Importance of TVA Ruling

The TVA suit was among the most significant of the NSR enforcement actions begun under the Clinton administration. TVA is the nation's largest public utility and the nation's fourth largest power supplier, serving 8 million people in seven Southeastern states. Court documents had suggested complying with the EPA directive would force a rate hike for TVA customers of up to 14 percent.

"The case against TVA was one of the strongest of those filed in 1999 against all of the utilities," lamented Stephen Smith of the Southern Alliance for Clean Energy. "We're back to ground zero, and EPA has got to start all over again, if they're going to start at all."

"The facts never supported application of the New Source Review program to these maintenance projects," countered Scott Segal, director of the Electric Reliability Coordination Council.

"We've spent five years of TVA ratepayer money and EPA's taxpayer money suing each other over these procedural issues," added TVA Director Bill Baxter. "The primary goal should be to clean up the air. TVA and EPA are on the same team in that effort."

Dana Perino of the White House's Council on Environmental Quality said the Supreme Court ruling underscores the appropriateness of the Bush administration's decision to promulgate a rule that clarifies the federal government's NSR interpretation in a manner consistent with the longstanding, pre-Clinton interpretation of the statute.

Said Perino, "This litigation-driven approach is slow and for the very reason that no one's air gets any cleaner when you're fighting in court, the Bush administration is working on regulations that will mandate a 70 percent cut in power plant emissions from all power plants rather than a piecemeal litigation approach."

Baxter said the court rulings were an appropriate response to enforcement actions initiated by the Clinton administration that reversed 20 years of accepted interpretation of NSR. Power suppliers such as TVA need assurance that compliance with accepted federal interpretations of NSR will not later be subjected to retroactive enforcement based on new interpretations.

Improving Air Quality

Baxter also asserted the EPA action was unnecessary because air quality is improving.

Roll Call Photos

Sen. Byron Dorgan (D-North Dakota) and Sen. .James Jeffords (I-Vermont) take part in a Senate Democratic Policy Committee hearing to examine the Bush administration's environmental policies.

"We have a goal that by the end of the decade, we will have reduced our nitrogen oxide emissions by 85 percent and our sulfur dioxide emissions by 75 percent (from 1970s peak)," Baxter said. "We're going to stay focused on those goals."

"Power companies face about a dozen major federal air quality programs, in addition to state requirements, designed to address various public health and environmental issues," said Bill Brier, Edison Electric Institute's (EEI) vice president for policy and public affairs. "We have cut nitrogen oxides and sulfur dioxide emissions—associated with smog and acid rain—by about 40 percent so far. Under new regulations proposed by EPA, we will cut emissions of these two pollutants—plus mercury—by about two-thirds from current levels over the next decade."

Those emissions cuts have been achieved, EEI reported, despite a 93 percent increase in gross domestic product and a 75 percent increase in electricity use since 1980. EPA's most recent air trends report found emissions of six primary air pollutants have been cut 48 percent since enactment of the federal Clean Air Act in 1970.

Northeastern AGs Threaten More Suits

Despite the rulings by the Eleventh Circuit and U.S. Supreme Court, attorneys general for three northeastern states have hinted they might initiate their own suit against TVA. All three are Democrats, fueling speculation that the suits are more about embarrassing the Bush administration than cleaning the air.

Such suits are becoming commonplace. Democratic attorneys general Eliot Spitzer of New York and Peter Harvey of New Jersey have joined the federal government in a suit against Ohio Edison. Also, Spitzer, Harvey, and six other northeastern attorneys general have joined the federal government in a suit against American Electric Power. Spitzer has led a group of Democratic state attorneys general threatening to sue the federal government for rescinding the Clinton administration's NSR interpretation.

Regarding the potential suit against TVA, a source close to the state attorneys general told *Energy & Environment Daily*, "The work has already been done in putting together the case. It's sort of low-hanging fruit with a very big payoff given the magnitude of the emissions associated with that system."

Ulla Reeves, regional program director for the Southern Alliance for Clean Energy, said her group was eagerly anticipating the northeastern states initiating a new suit against TVA. "It takes an enormous amount of resources for an environmental organization to bring a civil suit," she said. "It's incredibly appealing to have the states interested in this."

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

INTERNET INFO

The decisions of the Eleventh Circuit Court of Appeals and U.S. Supreme Court are available online at **http://www.ca11.uscourts.gov/opinions/ops/200015936.pdf** and **http://www.supremecourtus.gov/orders/courtorders/050304pzor.pdf**, respectively.

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Easterbrook Rebuts *New York Times* on Bush Clean Air Policy

by James M. Taylor

The April 4 cover of *New York Times Magazine* proclaimed, "Up in Smoke: The Bush Administration, the Big Power Companies and the Undoing of 30 Years of Clean Air Policy." Inside, a 13-page article claims President George W. Bush has gutted the Clean Air Act with his New Source Review updates.

Guerilla political attacks against a sitting President, especially one who is not from the extreme left of the political spectrum, are neither new nor particularly noteworthy from the *Times*. What is noteworthy is that Gregg Easterbrook, a senior editor for *The New Republic*, felt so outraged by the article that he dedicated a column in his publication to rebutting the *Times* attack.

Easterbrook points out, "all pollution regulated by the Clean Air Act is declining, has been declining for years, and continues to decline under George W. Bush. That's not mentioned in the 13 pages, since it would more or less spoil the entire premise of the story and the dramatic cover. No factual statement in the *Times Magazine* piece appears wrong, but the article systematically ignores counter-arguments and counter-facts in order to create a picture that is, overall, inaccurate."

Return to NSR Normalcy

The *Times Magazine* begins by describing how New Source Review (NSR) was established in 1977 and occasionally requires older power plants undergoing significant structural upgrades to install modern anti-pollution equipment. NSR has always been complicated and difficult for power companies to understand, frequently resulting in government lawsuits against power plants due to differing plausible interpretations of the act.

Late in the Clinton administration, EPA Administrator Carol Browner made the rules more strict, leading some utilities to postpone routine maintenance and equipment upgrades that would improve efficiency and reduce emissions. The Bush administration has crafted more readily understood rules dictating just when NSR requires companies to upgrade their anti-pollution equipment and technology.

Pollution Declining Under Bush

Easterbrook blasts the *Times Magazine* article for a number of implicit distortions in reporting on air quality under Bush. "Where the distortion enters is in what's not said," asserts Easterbrook. "First, the impression given is that new-source review is the guts of the Clean Air Act, when in fact it's a secondary provision, governing only a small fraction of total air emission sources. Second and much more important, trends involving pollutants governed by the Clean Air Act are positive and have continued to be positive under George W. Bush."

Adds Easterbrook, "Aggregate air emissions, everything rolled into one, have declined 25 percent since 1970, though the population has risen 39 percent in the same period. The *Times Magazine* cover and article give the impression that air pollution is getting worse when in fact it's in significant decline: about half as much, per capita, as in 1970.

"More specifically," continued Easterbrook, "[p]articulate emissions have declined 14 percent in the last decade. Acid rain emissions from power plants have fallen 41 percent since 1980 and have fallen 9 percent since Bush's election. Nitrogen oxide emissions from power plants have declined 33 percent since 1990.

"So *The New York Times Magazine* proclaims the 'undoing' of clean air policy," asserts Easterbrook, "but skips over the complication that air pollution is declining, and, yes, declining under George W. Bush. This deceives the reader, creating a doomsday impression that makes for a good magazine cover and gives [author Bruce] Barcott's article urgency, but does not hold up if you know what the article doesn't tell you. Barcott writes that he 'conducted months of extensive interviews' on Bush clean-air policy. In those months did he never ask anyone, 'Say, is air quality getting worse or better?' Maybe he did ask and kept the answer to himself, since the answer undercuts his story."

Air Improvements Will Continue

"Elliot Spitzer, Senator James Jeffords, and others who make extravagant claims about the Bush new-source rule change," summarizes Easterbrook, "never mention the complication that actual trends in air pollution are so inconveniently positive. True, trends might be even more positive had the Clinton-written rule remained in effect. Clinton's version of the rule was a good job and could have been left to stand; Browner, a very level-headed and reasonable person, put an awful lot of work into her rule and wanted it to be fair to utilities. (Power companies exaggerate the costs of new-source compliance just as enviros exaggerate the degree of emissions.) But the worst-case scenario for Bush's rule is that it will slow the future rate of pollution decline—which hardly sounds like the undoing of 30 years of clean-air policy, does it?

"Finally," writes Easterbrook, "the *Times Magazine* story ignores or buries the really inconvenient complication that the Bush White House has taken some steps to make air pollution regulation more strict. Bush has put into force three powerful new pollution-reduction rules, one written by Browner and the others composed under Bush. One new rule mandates that diesel engines of trucks and buses be much cleaner; a second new rule mandates that 'off road' power plants such as outboard motors and construction-machine engines be much cleaner; a third requires refineries to reduce the inherent pollution content of diesel fuel, this last rule enacted over the howls of Bush's core constituency, the oil boys. Taken together, these three new rules are the most important anti-pollution initiative since the 1991 Clean Air Act amendments that cracked down on acid rain. And because studies show that diesel fumes are bad for public health, Bush's new rules should produce at least as much public-health gain as the strictest interpretation of the new-source standard. Yet not a word of this in the *Times Magazine* article, since mention would undercut the premise."

Furthermore, reports Easterbrook, "in January the Bush EPA promulgated a new set of rules intended to force power plants to make another round of reductions in acid rain and nitrogen oxides. Grudgingly, on the last of its 13 pages, the *Times Magazine* article allows that Bush's January regulations might accomplish the goals of the Clinton new-source standard anyway, though doing so at lower cost. Poof! The entire story just disappeared. But how many people read all the way to the third-to-last paragraph, versus how many saw the doomsday cover?"

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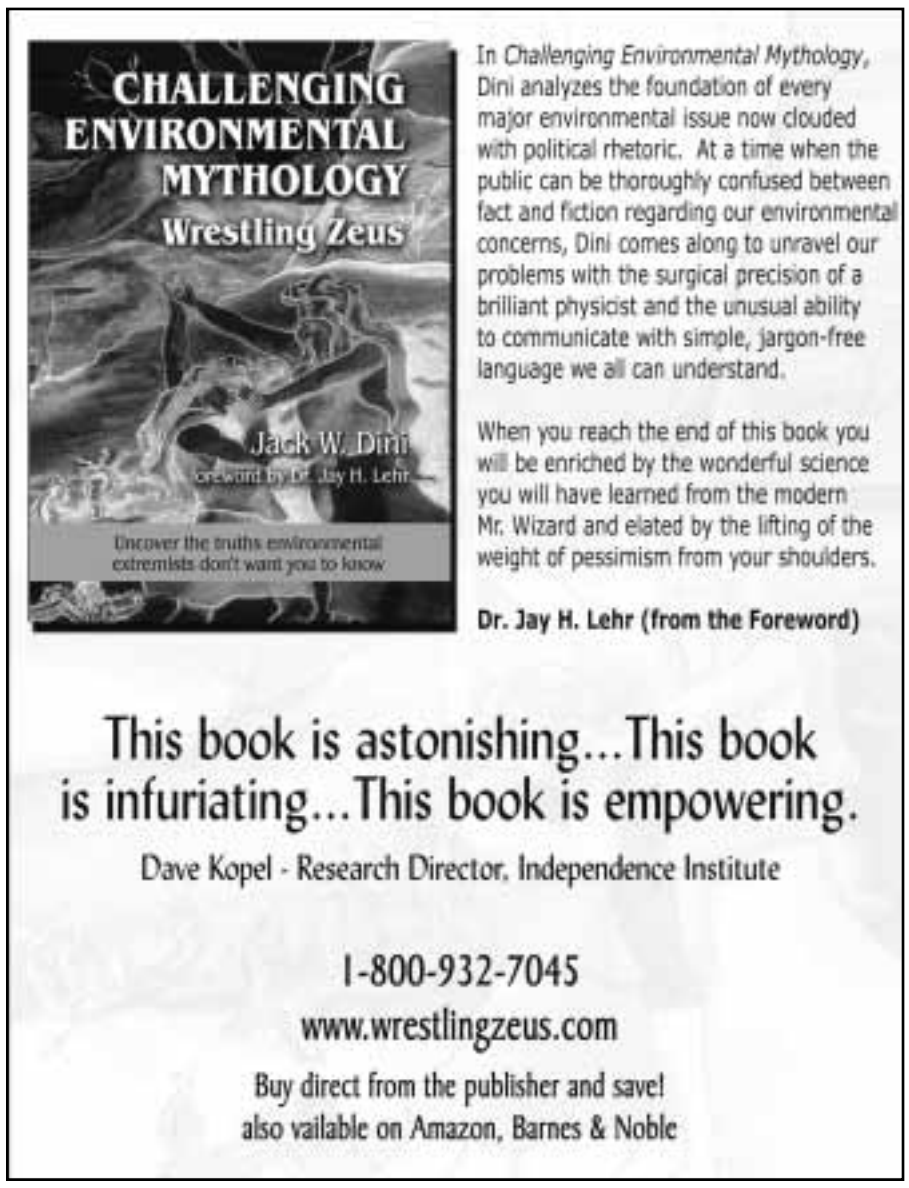
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For more information on improving air quality, see Environmental Protection Agency reports at **http://www.epa.gov/indicators/roe/pdf/tdAir1-1.pdf** (page 11) and **http://www.epa.gov/airmarkets/cmprpt/arp02/2002report.pdf** (Figure 1). The air quality rules promulgated by EPA in January 2004 are available online at **http://www.epa.gov/interstateairquality**.

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Natural Gas Battle Shifts to Imports

by James M. Taylor

Environmental activist groups, despite last year successfully calling for increased importation of foreign natural gas as an alternative to domestic drilling, are now engaging in a campaign to oppose natural gas imports.

Activists First Championed Gas

In the 1990s, activist groups championed natural gas as a cleaner-burning alternative to coal and oil. Natural gas is a more expensive source of energy, which imposes moderately higher energy prices on consumers, but the activist groups were successful in their campaign, and nearly all electric plants built since 1998 are designed to be fueled primarily by natural gas.

Having coerced the shift to natural gas, however, the activist groups now have embarked on a campaign to ban domestic natural gas drilling. Throwing up environmental arguments in opposition to virtually all new applications to drill for gas, the groups succeeded in creating a natural gas shortage severe enough by the summer of 2003 to capture the attention of Federal Reserve Chairman Alan Greenspan and Congressional hearings.

"At home, natural gas supplies from old wells are diminishing and permits to allow new domestic and offshore drilling have been slowed by environment regulation," reported Major Garrett of Fox News.

America is blessed with huge natural gas fields. But roughly 40 percent of U.S. natural gas reserves are already off limits to drilling due to regulation.

"We're not running out of natural gas, and we're not running out of places to look for natural gas," said Keith Rattie, president of energy developer Questar. "However, we are running out of places we are allowed to look for gas."

"Radical environmental groups have held up safe energy production on federal lands," explained House Resources Committee Chairman Richard Pombo (R-California). "Continuing moratoria, permitting backlogs, and radical environmentalist lawsuits have left Americans with as high as 1,000 percent price spikes in natural gas."

The activist groups' opposition to domestic natural gas production exists even though a study by the Rand Corporation concluded, "for the most part, the concentrations of economically recoverable gas exist in areas of relatively lower potential environmental concern."

Imports Now Challenged, Too

Giving in to activist demands, the major energy companies shifted their focus to natural gas production in other countries, with the intent to import liquified natural gas (LNG) into the U.S. Now, however, the same activist groups are opposing the importation of natural gas.

David Gordon, acting executive director of Pacific Environment, argued in the May 23 issue of *USA Today*, "LNG is often touted as a clean source of energy, but when you take into account the extraction, liquification, and transportation of the gas, it contributes significantly to global warming. Plus, LNG will come from controversial gas fields abroad, where energy companies take advantage of lax environmental laws."

By launching an advertising blitz claiming natural gas imports are environmentally unfriendly, Vallejo for Community Planned Renewal (VCPR) succeeded last year in thwarting plans to build a natural gas port and power plant along the California coast.

"Do we want a vibrant community with a variety of businesses, plenty of living wage jobs for our citizens, well-funded schools, and clean air to breathe, or do we want industrial blight, difficulty attracting non-industrial businesses, lower property values, poorly funded schools, polluted air and sick children?" read a VCPR brochure.

Puzzled observers wondering why activist groups would first champion natural gas, then fight domestic production in favor of imported gas, and then fight imported gas and domestic gas as well need only look at the policy statement of the radical Border Power Plant Working Group (BPPWG).

"We're not running out of natural gas, and we're not running out of places to look for natural gas. However, we are running out of places we are allowed to look for gas."
KEITH RATTIE, QUESTAR

According to BPPWG, only power sources resulting in "net zero" emissions are environmentally acceptable. In other words, any power source other than solar, biomass, wind, etc., will be opposed, even if doing so requires overlooking the negative environmental aspects of such "green" energy sources. Pacific Environment's Gordon asserted in *USA Today*, "growth in demand can be met with efficiency measures and renewable energy technologies."

Just Can't Win

Energy companies and state legislators who acquiesced to the activist groups' initial demands feel betrayed.

Marathon Oil recently announced its intention to build natural gas plants in Mexico's Baja California. But activist groups have announced opposition to the new plants, claiming they will cause "sight pollution" along the Mexican coast.

"They are dumping this on us because environmental laws are lax here," said Francisco Carrillo of Mexico's left-wing opposition PRD party, in language nearly word-for-word that used by Gordon in *USA Today*.

The Mexican government has already rescinded its approval for one Marathon Oil natural gas plant, and may rescind its approval of natural gas plants proposed by other companies as well.

"We are working closely with environmental groups, but we are going to face big challenges," an oil company source told the Reuters news service.

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Arizona

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gained popularity and market share by virtue of the government's oxygenate mandate.

MTBE's star began to fade, however, as leaking underground storage tanks resulted in groundwater contamination in some communities. Studies have suggested high levels of MTBE contamination in drinking water supplies may cause cancer in humans. Although the science behind such claims is still uncertain and the alleged harms largely speculative, juries have begun to assess large financial penalties on gasoline companies for MTBE contamination, and a number of states have taken steps to ban the additive. Arizona was the 18th state to enact such a ban.

"It can be very dangerous in our water," said Arizona State Rep. Carolyn Allen (R), who sponsored the House legislation. "When they first started using it, there wasn't an understanding about it getting into the water."

"The concern about MTBE is widely known," said Steve Owens, director of the Arizona Department of Environmental Quality. "This is one thing we will not have to worry about again."

Alternatives Pose Similar Problems

But the state ban on MTBE holds no real promise of ending groundwater contamination. According to a January 2004 study published by researchers at the University of California at Los Angeles, MTBE alternatives pose environmental risks very similar to those presented by MTBE.

"All indications suggest the alternative ether oxygenates would pose groundwater contamination threats similar to MTBE if their scale of usage is expanded," concluded the study.

"Several other fuel oxygenates with similar properties are present in formulations supplied to gasoline stations," said Tom Shih, an environmental scientist with the California Environmental Protection Agency and coauthor of the study. "However, unlike MTBE, there is virtually no research on the environmental behavior of these alternative fuel oxygenates."

Without a better understanding of these chemicals, there is a risk of repeating the MTBE problem, he warned.

The study, which appears in the January 1 issue of *Environmental Science & Technology*, a peer-reviewed journal of the American Chemical Society, analyzed more than 850 leaking underground fuel tanks in the Los Angeles area. According to the study, the science suggests expanded use of MTBE alternatives may be just as environmentally harmful as was MTBE's widespread use. Accordingly, say the study's authors, the answer to stopping groundwater contamination is to design better storage tanks. Regardless of what additive is mixed with gasoline, the additive will contaminate groundwater if allowed to leak.

Without MTBE, Arizona's gasoline will more closely match the fuel formula of neighboring California, which already has banned MTBE and utilizes ethanol to meet Clean Air Act requirements. Southern California already supplies nearly 60 percent of Arizona's gasoline.

Ethanol, however, poses its own set of potential problems.

According to Shih, ethanol has a number of drawbacks: It is more expensive than other additives; doesn't offer the same air quality benefits; and can't be mixed with gasoline and transported long distances.

An Unnecessary Mandate

Policy analysts have not missed the opportunity to point out that groundwater contamination by MTBE would not have occurred if the federal government had not mandated costly and only marginally effective gasoline additives in the first place.

According to Ben Lieberman, director of clean air policy for the Competitive Enterprise Institute, "Given the downward trends in motor vehicle emissions, and expected continued declines as older cars and trucks are continually replaced by newer, cleaner ones, it is arguable that there was no need for the federal government to regulate fuel content. Nonetheless, the 1990 amendments to the Clean Air Act established detailed requirements for gasoline.

"Fortunately, the MTBE battle has broadened into a larger debate over whether oxygenates are needed at all," added Lieberman. He said the best response to MTBE concerns is "to entirely eliminate the oxygen content requirement" from the Clean Air Act.

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Inflation Tainting the True Cost of Gasoline

by Stephen Moore

On May 5, a *USA Today* headline read: "Oil Prices Hit Highest Since Sept. 1990." The story glumly reported, "oil traded for more than $39 a barrel last week ... the highest closing price since 1990 and the 6th highest price ever."

Good news: It isn't true.

Yes, gas prices have spiked upwards by at least 30 percent in most local markets this year, and yes, it's infuriating to pay $2.00 a gallon to fill up the tank. And yes, higher oil prices are a significant tax on the U.S. economy—given that we're the world's largest importer of crude.

But gasoline prices, properly measured, are nowhere near their historical peak. In fact, the long-term trend in oil, gas, and electricity prices is downward, not upward.

Inflation-Adjusted Prices Reasonable

What the reporter at *USA Today* and so many others forgot to do was adjust for inflation. In the world of economics, this is an unpardonable sin. After all, if you don't adjust for inflation, just about everything is more expensive today than it was 30 years ago.

In inflation-adjusted dollars, gasoline prices paid at the pump have been on a steady rate of decline since the 1920s, with the exception of the 1970s, when we faced an OPEC embargo and gasoline lines. In 1920 the real price of gas (excluding taxes) was twice as high as today. Electricity prices were about three times higher 75 years ago.

If gas prices were as high today as they were in the late 1970s, we would now be paying about $6 a gallon for gas. Today's price at the pump is lower than it was as recently as 1985.

Oil Reserves Remain Untapped

The same is true, by the way, for the cost of oil. Adjusted for wage growth, oil is slightly cheaper today than it was 20, 30, and 50 years ago, and five times cheaper than 100 years ago.

How can gas and oil be cheaper since we've used so much of it over time? Thanks to human innovation, we are always finding new sources of oil, while at the same time technology makes it cheaper to drill for.

For example, the oil fields of Prudhoe Bay in Alaska have two to three times more reserves than originally believed. Russia, now on the way to becoming a capitalist economy, may soon become one of the world's top two oil producers, as the new Russian capitalist entrepreneurs continue to discover untapped fields.

Artificial Restraints Raising Prices

The economic evidence suggests that if Congress would only allow the development of new oil sources here at home, gasoline prices could easily slip comfortably below $2.00 per gallon.

When oil prices were $25 per barrel, we had the luxury of not drilling for more oil in Alaska. But now that the price is nearing $40 a barrel, with a good share of that money pipelined to Arab nations that are not always friendly to us (petrodollars have no doubt been siphoned off to terrorist networks in recent years), developing greater energy independence is no longer a luxury. In fact, it's an economic and national security necessity of the first order. Any energy bill signed into law by the President this year must include the right to drill in Alaska.

Senator John Kerry (D-Massachusetts) has complained that Bush is doing nothing to contain gasoline prices, but Kerry has been the consistent adversary of people who drive cars. He has supported gas tax hikes of as much as 50 cents a gallon. He has also taken every opportunity to sink plans for drilling in Alaska, saying that drilling would endanger moose and elk. But it's likely the biggest beneficiaries of Kerry's intransigence on drilling have been Arab oil exporters.

High gas prices could be a thorny political issue as we enter the spring and summer months, when travel across the country rises. But travelers should take solace in the fact that we now pay less for gas, adjusted for inflation and wages, than our parents and grandparents ever did. That's true even though the oil cartel, OPEC, forces the world price to be at least twice what it would be if there were a competitive marketplace at play. In Saudi Arabia and many other oil-producing nations, oil costs about 50 cents per barrel to produce.

The best way to break the back of OPEC would be to produce more oil here at home ... if only our politicians would allow it.

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Kansas

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operations. However, their expansion was prevented by the county resolution. The individual feedlot owners and Kansas Livestock Association filed a suit challenging the county resolution.

A district judge held the resolution exceeded the county's home rule authority and that the state had manifested a clear intent to preempt the field of CAFO regulation. In support of his decision, the judge noted the legislature intended to "reserve exclusive jurisdiction in a particular area by enacting a law of uniform application throughout the state, which manifests a clear intent to preempt the field." The district judge also held, in the alternative, that the resolution's provisions regarding separation distances constituted an unlawful attempt to engage in zoning of agricultural land.

Norton County appealed the district judge's decision, and the Kansas Supreme Court agreed to determine whether the county lawfully employed its home rule power.

County Required State Authority

As an initial matter, the state supreme court observed that Kansas counties derive all of their home rule authority from a state statutory scheme. Kansas counties are empowered to transact all county business subject to the restrictions and prohibitions set forth under state statute.

The state supreme court noted state statute K.S.A. 2003 19-101a (b) directs, "If no statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper." Legislation that contradicts any act of the state legislature, however, is invalid absent explicit authority to enact such legislation.

Invalidation of State Permit Not "Supplementary"

Regarding confined animal feedlots, the state supreme court pointed out the state had not given Norton County any explicit authority to enact legislation contrary to state standards. Norton County attempted to get around that obstacle by arguing its more stringent feedlot standards merely supplemented, rather than contradicted, state standards. The state supreme court did not agree.

Stated the court, "We have articulated the following standard for when a conflict exists between a county enactment and a state statute: 'The primary method for determining whether an ordinance or resolution of a county is inconsistent with a state statute is to see whether the local law prohibits what the state law permits or the state law prohibits what the local law permits.'"

Applying the facts of this case to the law, the state supreme court ruled, "the County's home rule resolution fails because it is 'contrary to any act of the legislature' under K.S.A. 2003 Supp. 19-101a(b). As counsel for the County was forced to admit at oral argument, the 'local law prohibits what the state law permits,' albeit implicitly. ... When a County prohibits the same CAFO activity, its prohibition is 'contrary to any act of the legislature.' The County's argument that there was no conflict here is nothing more than a word game, exalting form over substance."

INTERNET INFO

The Kansas Supreme Court's decision in *David v. Board of Norton County Commissioners*, No. 89,222, can be found online at **http://www.kscourts.org/kscases/supct/2004/20040514/89822.htm**.

Predictability Protected

Ottawa County farmer Steve Baccus, who is president of the Kansas Farm Bureau, called the state supreme court's decision "an enormous victory for Kansas farmers, ranchers, and rural communities.

"Had this case gone the other way, it could well have meant 105 separate sets of livestock regulation, and that's nothing but hardship and headaches for producers," said Baccus.

Allie Devine, general counsel for the Kansas Livestock Association, said the high court ruling provides the business community, including the livestock industry, with the regulatory stability it needs. "Livestock producers now can plan and maintain their operations under state law without the threat of variation from local authorities," said Devine.

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Massachusetts

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Senate in 1997 and subsequently rejected by President George W. Bush—by calling for the state to reduce greenhouse gas emissions to 1990 levels by the year 2010. It calls for an additional 10 percent reduction by 2020 through strict standards for old coal-fired power plants, promotion of renewable energy, encouraging "green" building technology, energy efficiency, cleaner vehicles, and public awareness.

The plan will not have a measurable impact on global or even national greenhouse gas emissions, since Massachusetts produces less than 2 percent of U.S. carbon dioxide emissions.

Some Wiggle Room

Unlike the Kyoto Protocol, Romney's plan focuses on voluntary initiatives, restricting any mandatory requirements to only a few large industries and the state itself. The plan includes no enforcement mechanism for requiring attainment of the goals.

The plan includes approximately 70 different policy initiatives but does not estimate how much those initiatives will actually reduce emissions. Nor does the plan estimate how much the initiatives will cost.

"Since the plan does not estimate how much its measures will reduce emissions, it is unclear whether it will meet its stated goals of reducing greenhouse gases to 1990 levels by 2010 and by what amounts to a further 10 percent by 2020," the *Boston Globe* reported on May 6.

Some of the most economically punitive measures activist groups frequently propose to reach such goals, such as energy taxes and emission caps, are absent from the plan. It is thus unlikely the state will suffer the economic consequences of capping carbon dioxide emissions. Research has found those costs could reach $6,300 per household by raising the price of goods and destroying jobs.

Romney already has rejected more stringent proposals. An earlier version of the plan obtained by the *Boston Globe* called for a reduction of greenhouse gases by 75 to 85 percent by 2050, but state officials have backed away from that provision.

State officials who drafted the final plan said there was "no scientific basis" for setting goals as far into the future as 2050 and that current technology would be unable to meet the reductions proposed for 2050.

"It was a consensus view that unless we could prove how we were going to achieve it, which was the whole point of the plan, that we should get on with the near- and midterm goals," said Douglas Foy, head of Romney's Office of Commonwealth Development.

Doubts About the Science

In addition to rejecting more stringent proposals, Romney made a special effort to convey that he personally had doubts about alarmist global warming theory, going so far as to attach a letter to the plan's final version suggesting he remains unconvinced that man-made greenhouse gases are an environmental problem.

"Romney said he was unsure whether climate change is occurring and whether human activity is causing it," reported the May 7 *Environment & Energy Daily*.

Romney characterized his support of the plan as an "insurance policy" focusing on voluntary initiatives in the private sector and mandatory reductions primarily directed at state agencies themselves.

"If climate change is happening, the actions we take will help," Romney wrote. "If climate change is largely caused by human action, this will really help. If we learn decades from now that climate change isn't happening, these actions will still help our economy, our quality of life, and the quality of our environment."

Plan Still Costly

Though mostly voluntary, some provisions of the plan are mandatory and will impose economic hardship on Massachusetts citizens.

For example, the plan includes implementation of the California low- emission vehicle mandate, requiring automakers to sell a minimum number of gas-electric hybrids and low-emission vehicles even if consumers show little interest in buying them. Mandating the use of expensive new technology imposes costs on all new car buyers, as car dealers are forced to subsidize the sale of some vehicles by raising prices for others.

The plan also requires the state's large businesses to inventory and report their carbon dioxide emissions. Once carbon dioxide reporting is required by law, global warming alarmists often push for carbon dioxide cap-and-trade programs, which have economic effects similar to energy taxes.

Marlo Lewis, a senior fellow at the Competitive Enterprise Institute, says, "All such schemes are Trojan horses for Kyoto-type policies. Credits awarded for 'early' reductions are assets that mature and attain full market value only under a mandatory emissions reduction target or 'cap.' Consequently, every credit holder acquires an incentive to lobby for emission caps."

According to Sandy Liddy Bourne, director of the Energy, Environment, Natural Resources and Agriculture Task Force at the American Legislative Exchange Council, "The Massachusetts Climate Protection Plan can be compared to a slick advertisement with no price tag. It is packaged with the same doom and gloom rhetoric of the environmental activists and commits the state government to long-term contracts for renewable energy without the benefits of a free market check-and-balance system.

"Alas," she noted, "the citizens of the commonwealth have been sold a bundle of goods wrapped up in a new energy tax and bound with red tape."

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

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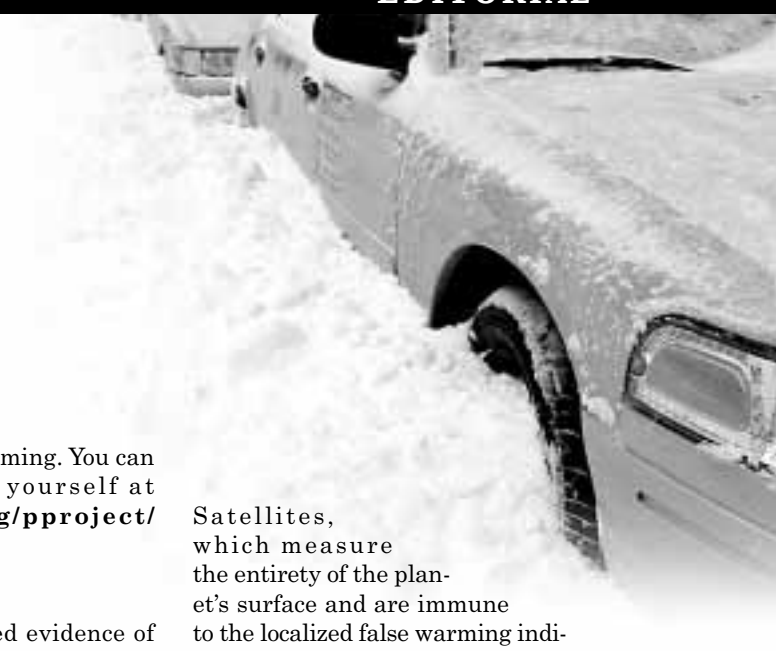
EDITORIAL

"The Day After Tomorrow": Hollywood Fantasy and Kindergarten Science

by James M. Taylor



Satellites, which measure the entirety of the planet's surface and are immune to the localized false warming indications of urban heat islands, show no global warming trend.

Is this what it has finally come down to? Rebuffed by science and ignored by the public, global warming alarmists are desperate enough for political relevance to trumpet second-rate Hollywood sensationalism as a "teachable moment" for the complex science of climate change.

May's release of "The Day After Tomorrow" has absolutely nothing to teach us about the science of global warming—even ardent global warming alarmists concede that. A superstorm pumped up on carbon dioxide like East German female Olympians pumped up on steroids will not engulf the globe. Tornadoes will not pound Los Angeles. Tidal waves will not destroy Manhattan. Subtropical Asia will not be buried by blizzards. It is a figment of Hollywood's imagination.

Scare Tactics

But images are powerful, and some movie-goers will be duped into giving more credit to alarmist global warming theory than it merits. We will hear the "teachable moment" slogan repeated *ad nauseam* by every alarmist-with-an-agenda from Al Gore to Captain Planet, but the "The Day After Tomorrow" has no more to teach us about global warming than "Independence Day" (not surprisingly created by the same producer) did about astronomy or "King Kong" about African biology.

Indeed, "The Day After Tomorrow" is a teachable moment only with regards to the playbook of the alarmist wing of the environmental movement. An impeachable moment, if you will.

When a heat wave occurs, the alarmists blame it on global warming. When a cold snap occurs, the alarmists blame this, too, on global warming. And if the weather neither cools nor warms, the alarmists can blame that, too, on global warming, as everybody knows the weather is always changing.

The alarmists and their sycophants in the media chant the mantra, "a consensus of scientists believe human activity is causing catastrophic climate change." But who are those scientists?

Not the scientists who contributed to the International Panel on Climate Change (IPCC) reports, since they were not asked to endorse the "summary for policymakers" that claims a link exists between human activities and climate change. Thousands of scientists worldwide—an overwhelming consensus, it could easily be argued—have explicitly rejected the alarmists' global warming theory. More than 17,000 of them, including dozens of Nobel laureates, have signed a petition saying no convincing scientific evidence supports the theory of catastrophic global warming. You can read the petition for yourself at **http://www.oism.org/pproject/s33p357.htm**.

Hot as a Toaster?

And what of the supposed evidence of global warming?

Computer models, whose programs are written by the global warming alarmists themselves, predictably foretell future warming. But we know those computer models are wrong because they inflate estimates of human greenhouse gas emissions and have "fudge factors" larger than the effect they claim to find. According to these computer models, the planet should already be several degrees hotter than it is.

Polar ice caps, predicted to melt due to global warming (and, according to Hollywood's "teachable moment," triggering the next ice age), have neither grown nor shrunk during the many decades since man began tracking them.

Sea level has risen slowly ever since the last ice age, long before mankind could have been a factor.

Ground-based temperature readings, which alarmists quote every year, do show a warming trend, but not when corrected for the "heat island effect" of roads, buildings, and appliances in cities. Heat sensors in rural areas show no warming.

Most recent and unbiased scientific research indicates that temperature change caused by rising concentrations of greenhouse gases will be moderate, perhaps one degree Celsius in the next century; most of the warming will occur at night and during the winter; and higher concentrations of atmospheric carbon dioxide (which plant life needs to thrive and survive) will lead to a greening of the planet that will enhance global food production.

To be sure, there are some wonderful cinematic special effects in the first half of "The Day After Tomorrow." But if you plan to see the movie and would prefer not to be insulted by kindergarten science, come prepared to turn off your brain for a couple of hours and enjoy the movie for what it is: Hollywood fancy.

James M. Taylor is managing editor of Environment & Climate News. *His email address is* **taylor@heartland.org**.

Senate Cracks Down on Ecoterrorists

by David Martosko

Testifying May 18 at a U.S. Senate Judiciary Committee hearing on "Animal Rights: Activism vs. Criminality," John E. Lewis, the FBI's deputy assistant director for counterterrorism, said "The Animal Liberation Front ... is our highest domestic terrorism investigative priority."

In support of the FBI's stance, Lewis detailed animal rights activists' use of "improvised explosive devices" and "threats of more, larger bombings and even potential assassinations of researchers, corporate officers, and employees." In the hearing's closing moments, Committee Chairman Senator Orrin Hatch (R-Utah) read aloud the full text of a letter from the Center for Consumer Freedom (CCF), drawing clear lines between underground violence and its above-ground activist support network.

Wide Range of Targets

In addition to the FBI's Lewis and a United States Attorney from California, witnesses at the hearing included leaders of a restaurant company, a biotechnology firm, and a university biomedical research center. All three have been recent targets of animal rights violence.

"A disturbing current of violence runs beneath the surface of 'mainstream' animal rights groups in the United States," Hatch read from the CCF letter. "And some of these tax-exempt charities are providing 'material support or resources' to groups and individuals whose activities fit the U.S. Criminal Code's definition of 'domestic terrorism.'"

Hatch called the violence documented in the CCF letter "startling" and insisted that if the claims are true, "action must be taken." Among the letter's claims:

- People for the Ethical Treatment of Animals (PETA) has donated more than $150,000 to criminal activists—including the terrorist Earth Liberation Front (ELF) and individuals jailed for arson, burglary, and attempted murder. When asked by eight different media outlets to explain the purpose of a $1,500 gift to the ELF, PETA officers and spokespersons gave eight different and contradictory answers.
- Until last year, when the Center for Consumer Freedom brought it to light, the Humane Society of the United States (HSUS) was quietly funding the operation of an Internet service that distributed official "communiqués" from the terrorist Animal Liberation Front claiming responsibility for criminal activities.
- Last year at the "Animal Rights 2003" national conference, Physicians Committee for Responsible Medicine (PCRM) spokesman Jerry Vlasak publicly advocated the murder of doctors who use animals in their research, saying: "I don't think you'd have to kill—assassinate—too many ... I think for 5 lives, 10 lives, 15 human lives, we could save a million, 2 million, 10 million non-human lives."

PCRM, ELF, and the other groups enjoy federal tax exemptions—perks similar to the status extended to universities and churches. According to CCF, more than 35,000 Americans have signed petitions urging the Internal Revenue Service to revoke the tax-exempt status of eco-terrorist groups.

Daivd Martosko is director of research for the Center for Consumer Freedom.

INTERNET INFO

The full text of the Center for Consumer Freedom's letter to Senator Orrin Hatch is available online at **http://www.consumerfreedom.com/downloads/senatorHatchLetter.pdf**.

The petition urging revocation of PETA's tax-exempt status is available online at **http://www.consumerfreedom.com/petaPetition.cfm**.

Other resources also are available on the CCF Web site at **http://www.consumerfreedom.com/**.

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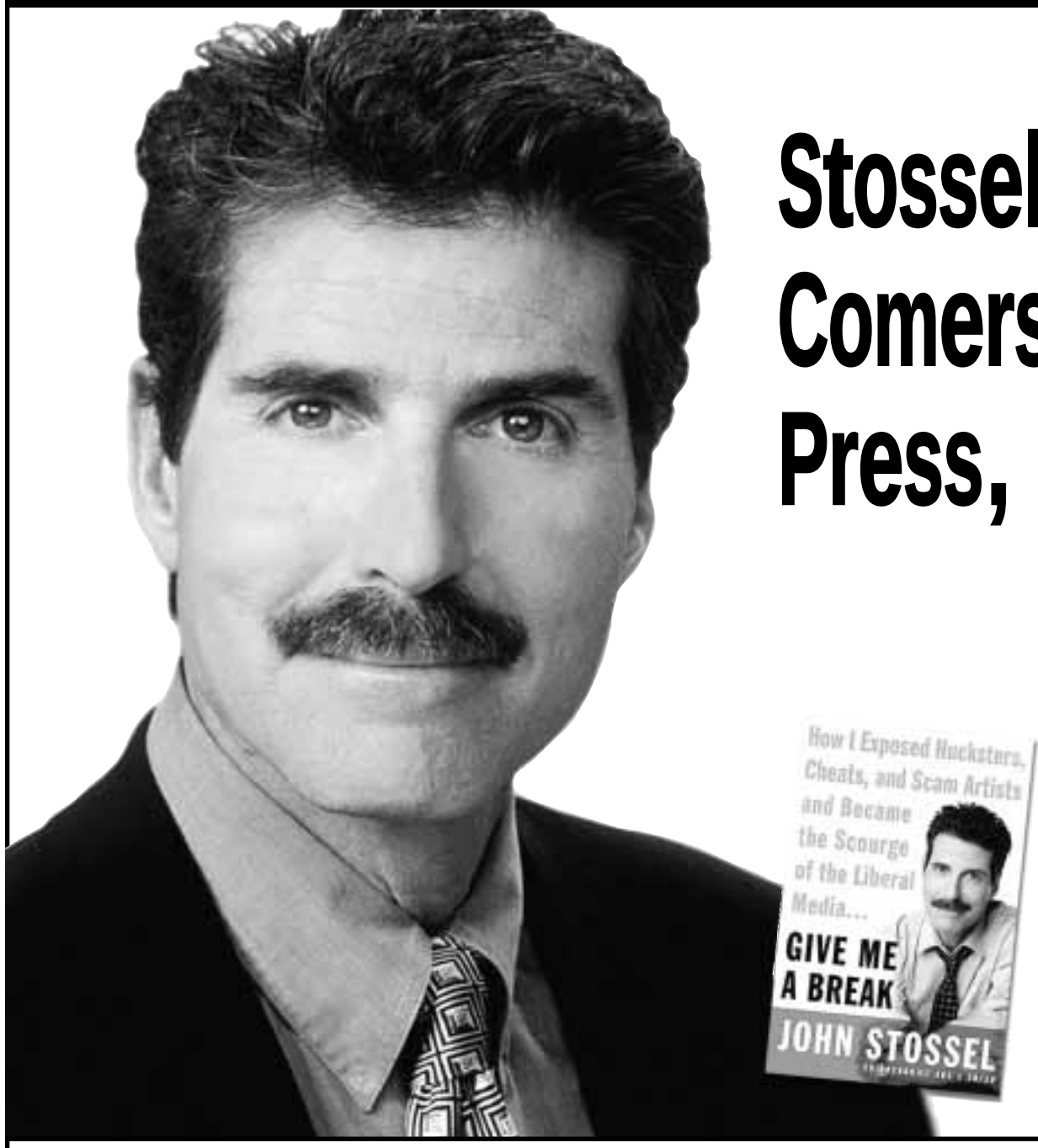
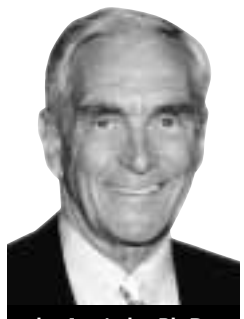
BOOK REVIEW

Stossel Takes on All Comers: Government, Press, Lawyers



Give Me a Break:
How I Exposed Hucksters, Cheats, and Scam Artists and Became the Scourge of the Liberal Media

by John Stossel
($24.95, 294 pages, HarperCollins, 2004, ISBN: 0060529148)



by Jay Lehr, Ph.D.

In the March 2004 issue of *Environment & Climate News* I praised the brilliance of Greg Easterbrook's new book, *The Progress Paradox*, stating it was among the 10 best books I had read in the past 20 years. In a longer unpublished summary of the book, which can be found on Heartland's Web site at **http://www.heartland.org**, I wrote that if the book were to attain a large readership it could result in considerable improvement of the human condition throughout the world.

Perhaps there was something in the drinking water of prominent journalists writing books last year. John Stossel's new book, *Give Me a Break*, is of equal weight and moment. If widely read, it could set the stage for dismantling the vast government bureaucracy that is increasingly holding U.S. citizens hostage.

Exposing Scams ... and Government

Nearly 20 years ago, I was interviewed by Stossel for a "20/20" program on the subject of water witching. I begged him not to give the subject undeserved exposure, because he was intent on taking the approach that there might be some credence to it. In fact, there is none. Stossel ignored my request, because in those days he was focused primarily on subjects that would grab ratings for him and ABC rather than seriously informing the audience.

Stossel nevertheless did many useful stories in those years, exposing such scams as "earn a $1,000 a week addressing envelopes in your home," dozens of miracle potions to improve your physique, crooked medical practices, funeral scams, and trade groups that stymied entrepreneurial efforts to start businesses such as motor van transport and hair braiding.

Eventually, he realized that while such stories were enlightening, the number of people harmed by the scams was small, the perpetrators rarely got rich, and competition usually drove such scammers out of the marketplace.

Stossel admits it took him 15 years to see that exposing consumer fraud and corporate scams was a lot less useful than exposing the actions of government officials, zealous advocacy groups, and trial lawyers who pose a far greater threat to our society.

While Stossel's book is only 294 pages of sizable print, it is not a fast read—not because it is difficult, but because one cannot help but hear, and be distracted by, his familiar whiny nasal voice and wry wit.

Stossel tells more than 100 of the most shockingly disgraceful examples of government overkill with precision, brevity, and accuracy. Few stories worth telling from my 50-year career in environmental science, health, and technology are missing. Not only does he accurately recount each mis-representation of environmental overkill, government ineptitude, and nonprofit malfeasance, but in many cases he interviewed the actual participants and/or culprits.

Examples of Stossel's breathtaking exposé include: airbags, ambulance service, asbestos, Aspen lead poisoning, Bic lighters, breast implants, milk price-fixing, crack babies, dioxin, domestic violence, Erin Brockovich, ergonomic evaluation of home offices, forest fires, global warming, organic food hoax, Love Canal, McDonald's coffee, private toilets, rent control, capitalism as poverty fighter, sport stadiums, Times Beach, tobacco lawsuits, and vaccines.

One of his first major efforts was aimed at the Food and Drug Administration, which he once revered following the agency's handling of Thalidomide, the drug that deformed many infants throughout Europe and Canada in the 1960s. Stossel came to realize that FDA's growing bureaucracy so dramatically slowed new drug development in the U.S., while increasing by more than 10-fold the cost of approving new drugs, that it ultimately was costing many more lives than it saved.

We Need Very Few Rules

This epiphany led Stossel to recognize that capitalism, with its three supporting pillars of private property, an open marketplace, and the rule of law, could police society through free choice and competition far better than government coercion. Having had socialism ingrained in him by a far-left faculty at Princeton University (his alma mater

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and mine), Stossel became a true libertarian, recognizing in his own words that most of the rules we need are learned in kindergarten:

"Don't hit other people, don't take their stuff, and keep your promises. To enforce these rules, we have contracts, police, and courts. Government, however, attempts to accomplish this thing through force alone."

Stossel recognized we don't need a million rules, because free markets regulate themselves. While the corporate malfeasance at Enron, World Com, Adelphia, and Tyco represented terrible scandals, we should keep in mind those scandals were exposed by markets—not by government.

Stossel was significantly impacted by Michael Kelly, editor of the *New Republic*, who wrote the following harsh but accurate statement about what some call our "nanny state":

"It has been called the nanny state, but that is far too kind a term. It is too cold, too cruel, too implacable, too illiberal to be a nanny. It is the Nurse Ratched [the dictatorial ward matron in "One Flew Over the Cuckoo's Nest"] state. Government has created a brutal system of mandated behaviorism, in which the state uses its immense powers to force targeted citizens and entities to 'voluntarily' accept a violation of their rights ... The efforts to sustain affirmative action rest on these coercive methods. So, too, do the efforts to enforce the decree that private workplaces be free of discriminatory, harassing, or even rude behavior."

Scares in Perspective

Stossel does a wonderful job putting the "chemical scares of the month" in perspective. He writes, "Thousands of new chemicals have been introduced over the past forty years. If they were giving people cancer, then there should be an epidemic of cancer in this country, but there is not."

He then proceeds to take apart the Erin Brockovich myth that vilified Pacific Gas & Electric Company with no evidence whatsoever that hexavalent chromium could have caused the illnesses she blamed on it.

Similarly, his recounting of the story of lead residues in Aspen, Colorado, left over from the days of its silver mining history, offers a rare example of victory against the lunacy of EPA's unwarranted and unscientific effort to dig up a town where no environmental threat existed.

After succeeding at wreaking unnecessary havoc at Times Beach, Missouri and Love Canal, New York, it is no wonder EPA thinks it can rule the roost. But Stossel puts it all into perspective using Dr. Bernard Cohen's work at the University of Pittsburgh. Cohen calculated lost life expectancy for society related to various risks. A worst-case estimate for all toxic chemicals in the environment has them costing the average citizen four days of life. Driving automobiles reduces life an average of 182 days, smoking 5.2 years ... and poverty, 9 years.

Stossel does an excellent job explaining junk science with well-articulated yet brief examples such as cold fusion (it never worked), megadosing on vitamin C to fight cancer (it doesn't work), and silicon breast implants (they caused no illness).

Stossel admits to being maligned by most members of the press, and it is no wonder. He clearly places much of the blame for the growing prevalence of junk science at their feet, because they are clueless about science and do not recognize that "association of data is not causation." He uses the "Texas sharpshooter fallacy" to explain a great deal of junk science. The story goes that a drunken Texan shot 100 bullets into the side of a barn, walked up to it and drew a bull's-eye around the biggest cluster of bullet holes, and then claimed that's where he was aiming. Members of the press who find "cancer clusters" and other alleged groupings of disease are no different.

Stossel summarized his outrage with the press as follows:

"We like to think we're superior to the people who, centuries ago, burned 'witches' for no better reason than a neighbor's belief that his crop failure or impotence was caused by that woman's action. But reporters are still prone to the same mental errors that caused these killings: seeing patterns where there are none, finding causes where there is only coincidence, ignoring our sources' political agendas and turning scanty evidence into panic."

Taking On Government, Lawyers

In his chapter on government, Stossel quotes Thomas Jefferson, who wrote, "The natural progress of things is for liberty to yield and government to gain."

He illustrates Jefferson's wisdom time and again and then offers a tutorial on the tremendous benefits of capitalism to society. He compares the U.S. Postal Service to Federal Express and UPS, then puts government's extraordinary growth in perspective with this statistic:

"Around 1900, America had 6 million farms, and the Agriculture Department employed 3000 people. Today there are 2 million farms, but the Department employs 100,000 people. At this rate soon there will be more bureaucrats than farmers."

He summarizes this chapter most eloquently. "Today government runs trains, subways, schools, parks, public housing, welfare, Medicare, Medicaid, Social Security, a war on drugs. It subsidizes students, farmers, ranchers, Indians, researchers, volunteers, small businessmen, rich businessmen, and artists. It polices the world and, at home, polices our speech, jobs, schools, sports, and bedrooms. Maybe if it weren't doing all those things—badly—it would do a better job doing what it should be doing: like protect us from terrorists."

Welfare for the Rich

Stossel does not spare the whip on the rich. In his excellent chapter on "welfare for the rich," he castigates a wide variety of rip-offs on their behalf. These include flood insurance in unsafe places, sports stadiums (the subject of path-breaking studies by The Heartland Institute), eminent domain laws, and rent control among others.

After Stossel finishes his elegant description of how the law works today to enrich lawyers in scurrilous class-action lawsuits and shakedowns of countless corporations for big bucks with the threat of a lawsuit, you will be strongly in favor of reforming our system.

Stossel contends the U.S. ought to join the ranks of every other developed nation in the world, where the loser pays the costs of the lawsuit for the winner. The trial lawyers, of course, stand in the way of that reform, which could kill the geese that lay the golden eggs for them. Stossel takes trial lawyers to the woodshed with countless examples of how they make our lives so very much more expensive.

Lawsuits add $500 to the price of a car, Stossel notes, and $3,000 to every pacemaker. Even haircuts cost more because hairdressers now buy lawsuit insurance in case someone has a bad hair day.

An even greater cost of this lawsuit abuse is the loss of all the good things we don't get to have in the first place. Genentech says fear of lawsuits led it to halt research into an AIDS vaccine. Other entrepreneurs give up on countless promising ideas because innovation risks opening the door to a lawsuit.

Stossel eviscerates the legal profession with precise factual support, but without malice in his explanation of asbestos suits, anti-smoking extortion, and a variety of class-action suits where only the lawyers win.

Not a Conservative

Although often accused of being a conservative, Stossel does not see himself that way. He believes consenting adults should be able to do just about anything they want, and that prostitution should be permitted. "If quarterbacks and boxers can make money on their bodies, why can't a woman make money with hers?" he asks. He thinks homosexuality is perfectly natural, the drug war should be ended, flag burning and foul language should be tolerated, and most abortions should be legal. But these socially liberal attitudes score him no points among his liberal colleagues in the press.

In *Give Me a Break*, Stossel fully exposes left-wing efforts to limit our freedom on college campuses, by the media and hundreds of left-wing special interest groups. One of his greatest contributions may be coining the term "the totalitarian left."

One of Stossel's favorite quotes is by H.L. Mencken, "The urge to save humanity is almost always a false-face for the urge to rule it." That's one of my favorites as well.

Solution Is to Downsize

While Stossel offers throughout his book much advice for how to fix things, his simple recommendation to downsize government is the best:

"GOVERNMENT. Let there be less of it. How much less? I don't want to be greedy; how about we just limit it to 20 percent of the economy, instead of 40 percent? That's hardly starving the state. It still gives more than $1 trillion to the federal government alone. Isn't that enough?

"The trillion dollars freed up by cutting government in half would allow people to create all kinds of good new things, and enjoy life a lot more.

"Government should stick to what it needs to do: set basic safety and environmental rules and keep the peace. Otherwise government should leave people alone."

It is unimaginable to me that any reader of *Environment & Climate News* would not love Stossel's book for both its education and entertainment value. I am so sure of this that I will put my money where my pen is.

If you buy and read *Give Me A Break* and do not love it, I will buy it back from you: for what you paid plus the cost of postage to send it to me. And I'll make the same offer retroactively on Greg Easterbrook's *The Progress Paradox*, reviewed in our March 2004 issue. You will be able to stand up more effectively to "the totalitarian left" when you are armed with the information provided by these gifted writers.

"If you buy and read *Give Me A Break* and do not love it, I will buy it back from you: for what you paid plus the cost of postage to send it to me. And I'll make the same offer retroactively on Greg Easterbrook's *The Progress Paradox.*"

Jay Lehr is science director for The Heartland Institute. His email address is **e3@e3power.com**.

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